

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/1. IN GENERAL

PARLIAMENT (VOLUME 34 (REISSUE))

1. IN GENERAL

UPDATE

501-526 In General

Material relating to this part has been revised and published under the title PARLIAMENT vol 78 (2010).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/2. THE HOUSE OF LORDS

2. THE HOUSE OF LORDS

UPDATE

527-584 The House of Lords

Material relating to this part has been revised and published under the title PARLIAMENT vol 78 (2010).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/3. THE HOUSE OF COMMONS

3. THE HOUSE OF COMMONS

UPDATE

585-693 The House of Commons

Material relating to this part has been revised and published under the title PARLIAMENT vol 78 (2010).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/4. PARLIAMENTARY PROPERTY

4. PARLIAMENTARY PROPERTY

UPDATE

694-700 Parliamentary Property

Material relating to this part has been revised and published under the title PARLIAMENT vol 78 (2010).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/5. MEETING, ADJOURNMENT, PROROGATION AND DISSOLUTION OF PARLIAMENT

5. MEETING, ADJOURNMENT, PROROGATION AND DISSOLUTION OF PARLIAMENT

UPDATE

701-727 Meeting, Adjournment, Prorogation and Dissolution of Parliament

Material relating to this part has been revised and published under the title PARLIAMENT vol 78 (2010).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(1) CLASSIFICATION OF LEGISLATION/728. Public and private bills.

6. THE LEGISLATIVE WORK OF PARLIAMENT

(1) CLASSIFICATION OF LEGISLATION

728. Public and private bills.

Bills are divided into two classes, namely public and private bills¹. A public bill may be introduced by a member of either House, but a private bill may be laid before Parliament only upon a petition presented by the parties interested². With certain exceptions³ each House has the right to originate and pass any public bill.

1 As to hybrid bills see PARA 839 post.

2 For the distinction between private and public bills see PARA 729 post.

3 See PARLIAMENT vol 78 (2010) PARAS 821, 1024.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(1) CLASSIFICATION OF LEGISLATION/729. Distinction between public and private bills.

729. Distinction between public and private bills.

As a general rule, any measure the object of which is to alter the general law or which deals with the public revenue, with the general administration of justice or with the constitution or election of local authorities or other public bodies should be introduced as a public bill; whereas any measure which confers powers or benefits on a particular person or body should be introduced as a private bill¹.

¹ See PARAS 845-847 post. As to the power of local authorities to promote bills see LOCAL GOVERNMENT vol 69 (2009) PARA 572. As to hybrid bills see PARA 839 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(1) CLASSIFICATION OF LEGISLATION/730. Bills to confirm orders.

730. Bills to confirm orders.

Bills presented under the Statutory Orders (Special Procedure) Acts 1945 and 1965 are measures introduced by certain Ministers of the Crown in order to obtain legislative sanction for an order, or series of orders, which they have made under powers conferred upon them by Parliament, and which they are empowered to embody in a bill and submit to Parliament for confirmation in that form. These bills in their progress through Parliament are treated partly as public bills and partly as private bills¹.

¹ See further PARA 912 et seq post. See also LOCAL GOVERNMENT vol 69 (2009) PARA 99.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(1) CLASSIFICATION OF LEGISLATION/731. Church of England Measures.

731. Church of England Measures.

The General Synod of the Church of England may frame and pass legislative proposals¹, termed Measures, concerning the Church of England. A Measure agreed to by the General Synod is submitted by its Legislative Committee to the Ecclesiastical Committee of members of both Houses whose duty it is to report to Parliament upon the nature and legal effect and expediency of the Measure. The report is then communicated in draft to the Legislative Committee; and once that body has signified its desire that the report should be presented to Parliament, the report and the Measure are forthwith laid before both Houses and are ordered to be printed. Thereafter a resolution is submitted to each House directing that the Measure, in the form laid before Parliament, be presented to Her Majesty². When this resolution has been passed by each House and the royal assent signified, the Measure has the force and effect of an Act of Parliament³. Parliament has thus no power to amend a Measure, but either House, by declining to agree to the resolution, is able to effect its rejection⁴.

¹ See under the Church of England (Assembly) Powers Act 1919 ss 3, 4 (amended by the Synodical Government Measure 1969 s 2(2)); see ECCLESIASTICAL LAW vol 14 PARA 399 et seq.

² See ECCLESIASTICAL LAW vol 14 PARA 406 et seq.

3 See ECCLESIASTICAL LAW vol 14 PARA 410.

4 See 158 Lords Journals 55; 181 Commons Journals 378; 182 Commons Journals 378; 183 Commons Journals 204; 240 Commons Journals 697. A resolution that a Measure be presented to Her Majesty was negatived (in the House of Commons) in one session of Parliament, but a motion in respect of the same Measure was agreed to in the subsequent session: see 245 Commons Journals 509, 246 Commons Journals 189.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(2) DRAFTING OF PUBLIC BILLS/732. Government bills.

(2) DRAFTING OF PUBLIC BILLS

732. Government bills.

The Office of the Parliamentary Counsel¹ is responsible for the drafting of all government bills except the Consolidated Fund and Appropriation Bills, which are in common form, and bills, or provisions of bills, extending exclusively to Scotland or Northern Ireland, which are handled by the Parliamentary Draftsmen for Scotland² and the Legislative Draftsmen for Northern Ireland respectively³.

There is now increased emphasis on the production of draft legislation for consultation⁴ and proposals have been made for increased pre-legislative scrutiny⁵.

1 The Office of the Parliamentary Counsel was constituted by a Treasury Minute dated 8 February 1869. The professional staff consists of a number of barristers and solicitors whose whole time is devoted to the work of the office. Members of the office are seconded in turn to the Law Commission for the preparation of consolidation, statute law revision and law reform bills. See also STATUTES vol 44(1) (Reissue) PARA 1242. As to the Law Commission see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 957; STATUTES vol 44(1) (Reissue) PARA 1244.

2 The Parliamentary Draftsmen for Scotland are advocates and constitute the professional staff of the Lord Advocate's Department. These draftsmen, together with draftsmen attached to the Scottish Law Commission, are from time to time engaged in the preparation of consolidation, statute law revision and law reform bills for that commission.

3 The Legislative Draftsmen for Northern Ireland, who are barristers and solicitors of Northern Ireland, also draft Orders in Council under the Northern Ireland Act 1974, Sch 1, and consolidation, statute law revision and law reform bills applying to Northern Ireland.

4 See the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) Appendix 2 (memorandum submitted by the First Parliamentary Counsel).

5 See the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) paras 19-30, 91.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(2) DRAFTING OF PUBLIC BILLS/733. Authority for drafting and introducing government bills.

733. Authority for drafting and introducing government bills.

When the government has approved proposals for legislation and allotted a place in the legislative programme for those proposals, the draftsman is authorised to prepare the bill on the instructions of the department or departments concerned¹. When the bill has been settled

to the satisfaction of the minister or ministers responsible for it, it is circulated in draft to his colleagues before being presented to Parliament².

1 See STATUTES vol 44(1) (Reissue) PARA 1242.

2 See, however PARA 732 text and notes 4-5 ante. It has been recommended that a simple explanatory guide to a bill should be produced and made available to interested parties, including via the Internet: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) para 92.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(2) DRAFTING OF PUBLIC BILLS/734. Functions of counsel during progress of government bills.

734. Functions of counsel during progress of government bills.

The draftsman, in company with officials of the department responsible for a government bill, may attend the sittings of Parliament or of parliamentary committees when the bill is under discussion. All notices required to be given in connection with the presentation of the bill, any money resolution to be moved in connection with it, and any government amendments to the bill are handed in to the Public Bill Office of the appropriate House of Parliament by the counsel in charge of the bill. It is also his duty to draft all government amendments and to advise the government (and, if called upon in the Commons, the Speaker or the chairman of a standing committee) as to the effect of amendments. He also appears before the Joint Committee on Consolidation etc Bills to explain the contents of consolidation and statute law revision bills¹.

1 See PARA 843 post. As to the progress of government bills see generally PARA 736 et seq post. Recommendations have been made for the programming of bills in the House of Commons as an alternative to the traditional procedure: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) para 89.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(2) DRAFTING OF PUBLIC BILLS/735. Public bills presented by private members.

735. Public bills presented by private members.

A private member who introduces a public bill is responsible for drafting the bill himself or for obtaining the necessary drafting assistance. Such bills are examined by the departments concerned, and any government amendments which are considered to be necessary are drafted, on the instructions of the government, by the Parliamentary Counsel or the Parliamentary Draftsmen for Scotland, as the case may be¹.

1 See further STATUTES vol 44(1) (Reissue) PARA 1242.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(i) Presentation and First Reading/A. PROCEDURE IN THE HOUSE OF LORDS/736. Introduction and first reading of a bill in the House of Lords.

(3) PUBLIC BILLS

(i) Presentation and First Reading

A. PROCEDURE IN THE HOUSE OF LORDS

736. Introduction and first reading of a bill in the House of Lords.

Any lord has the right to introduce a bill in the House of Lords without either moving for leave or giving previous notice to the House of his intention to bring it in¹. A bill which is presented to the House of Lords is almost always read the first time without discussion as a matter of courtesy and because the House usually has no knowledge of the bill until it is printed. As a general rule, therefore, no opposition is offered to the motion 'That this bill be now read a first time', though it is not unknown for the first reading to be discussed, opposed or refused². As soon as the motion has been agreed to, an order is made for the bill to be printed³.

1 See 3 Official Report (1st series) col 42; and Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22. However, for a bill (other than one mentioned in the Queen's Speech) which touches wholly or substantially upon the royal prerogative, it is customary to move an address, of which notice is required, for the consent of the Crown before the bill is introduced. As to the consent of the Crown in general see PARA 819 post.

2 Eg the first reading of the Statute of Westminster 1931 (Amendment) Bill 1943 was negatived (4 November 1943).

3 Unless a bill is very short and is self-explanatory, it is customary to prefix to it an explanatory memorandum. This must be confined to explanation and must not be argumentative in character. In the case of a government bill, the financial and manpower implications, and a business compliance cost assessment, are included.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(i) Presentation and First Reading/A. PROCEDURE IN THE HOUSE OF LORDS/737. Intervals between stages.

737. Intervals between stages.

After the motion for first reading has been agreed to, the lord in charge of a bill may give notice of the day on which he proposes to move its second reading. No two stages of a bill may be taken on the same day, save that if a bill has not been amended in committee, the report stage can be taken immediately thereafter¹. A motion, notice of which must be given on the order paper, must be made and carried whenever it is desired to suspend the standing order which embodies this rule². Although the standing order only prohibits more than one stage on the same day, the House has laid down that certain minimum intervals between stages of a public bill should be observed. These are:

- 1 (1) two weekends between the introduction of a bill, or the date it is brought from the Commons, and second reading;
- 2 (2) 14 days between second reading and the start of committee stage;
- 3 (3) on all bills of considerable length and complexity, 14 days between the end of committee stage and the start of report stage; and
- 4 (4) three sitting days between the end of report stage and third reading.

Whenever these intervals are to be departed from, notice has to be given on the order paper, except when the relevant standing order³ has been suspended⁴.

1 See HL Standing Orders (Public Business) (1994) no 44.

2 As to such notices see PARLIAMENT vol 78 (2010) PARA 861. For an instance of a bill being carried through both Houses in a single day see the proceedings on the Northern Ireland Bill 1972 in 204 Lords Journals 159; 227 Commons Journals 171-172. See also HL Standing Orders (Public Business) (1994) no 84, which enables bills to be proceeded with immediately for reasons of national security and for the provisions of no 44 to be dispensed with.

3 *Idem* no 44: see the text and note 1 *supra*.

4 See 210 Lords Journals 821; 211 Lords Journals 23.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(i) Presentation and First Reading/A. PROCEDURE IN THE HOUSE OF LORDS/738. Bills sent up from the House of Commons.

738. Bills sent up from the House of Commons.

Bills sent up from the House of Commons receive a first reading as a matter of course. Unless, within 12 sitting days after a bill has been brought from the Commons, a lord gives notice of a date for its second reading, the bill may only be proceeded with in the same session after eight days' notice¹.

1 See HL Standing Orders (Public Business) (1994) no 47.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(i) Presentation and First Reading/A. PROCEDURE IN THE HOUSE OF LORDS/739. Consideration by the Delegated Powers and Deregulation Committee.

739. Consideration by the Delegated Powers and Deregulation Committee.

As soon as possible after first reading in the House of Lords all public bills, except consolidation and supply bills, are considered by the Delegated Powers and Deregulation Committee. This committee was set up on an experimental basis in the session 1992-1993¹ and was established as a sessional committee from the beginning of the session 1994-95². The committee is required to report whether any provisions of the bill inappropriately delegate legislative power or whether they subject the exercise of legislative power to an inappropriate degree of parliamentary scrutiny³. The committee normally has a memorandum from the relevant department and may take other evidence. It aims always to report before the committee stage so that any recommendations it may have on a bill can be taken into account then⁴.

1 See the *First Report of the Select Committee on Procedure of the House* (HL Paper 18 (1991-92)) Pt I, 226 Lords Journals 164, following a recommendation of the Select Committee on the Committee Work of the House (1 February 1992) (HL Paper 35 (1991-92)). The committee was originally called the 'Delegated Powers Scrutiny Committee'. This name was later changed to its present name to reflect the addition to its terms of reference of functions concerned with deregulation orders: see note 3 *infra*.

2 See the *Fourth Report of the Select Committee on Procedure of the House* (HL Paper 92 (1993-94)), 227 Lords Journals 707.

3 Eg whether a subordinate instrument under the bill should be subject to affirmative rather than negative procedure, or whether an instrument subject to no parliamentary procedure should be subject to negative procedure. In May 1994 the committee was given additional and unrelated terms of reference concerned with deregulation orders: see PARA 947 post.

4 The *First Report of the Select Committee on Procedure of the House* (HL Paper 18 (1991-92)), 226 Lords Journals 164, noted that if for any reason the committee's report was not ready for the committee stage the House would be under no obligation to delay proceedings. In practice the committee has always reported in time for the committee stage. On one occasion, in the case of accelerated business, the committee was due to consider a bill only on the day before all stages of the bill were to be taken. The Leader of the House said that a separate committee stage would be arranged if the committee's report raised any point of sufficient importance to justify it; this did not, however, prove necessary: see 545 HL Official Report (5th series), 20 May 1993, cols 1855-1856.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(i) Presentation and First Reading/B. PROCEDURE IN THE HOUSE OF COMMONS/740. Presentation and first reading in the House of Commons.

B. PROCEDURE IN THE HOUSE OF COMMONS

740. Presentation and first reading in the House of Commons.

In the House of Commons a public bill may be presented under the procedure laid down in the standing order relating to the presentation of public bills¹, upon an order of the House, or by being brought from the House of Lords. The majority of bills originating in the Commons are presented under the standing order. A member who, after giving notice, presents a bill in this way brings it to the table at the commencement of public business, on being called by the Speaker. The clerk reads the short title of the bill, and the member, in reply to a question from the Speaker, chooses a day for its second reading². It is not necessary for a member when introducing a bill to lay the full text before the House. He need only present a 'dummy' which carries the short and long titles of the bill, the name of the member presenting the bill and the names of members who support it. The number of supporters must not exceed 12, including the member presenting the bill³.

1 Ie HC Standing Orders (Public Business) (1997) no 57, as to which see PARLIAMENT vol 78 (2010) PARA 971.

2 See *ibid* no 57(2). It has been recommended that an ad hoc first reading select committee should be appointed to consider certain bills after first reading: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) paras 36-37, 93.

3 Private Ruling, 1 February 1873; and see 975 HC Official Report (5th series) col 442; and Erskine May's *Parliamentary Practice* (22nd Edn, 1997) Ch 22.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(i) Presentation and First Reading/B. PROCEDURE IN THE HOUSE OF COMMONS/741. Presentation of a bill by order of the House of Commons.

741. Presentation of a bill by order of the House of Commons.

The procedure of presenting a bill by order of the House of Commons has been practically superseded, except for bills founded on financial resolutions and bills introduced under the standing order relating to motions for leave to bring in bills¹. The introduction of a bill whose main object is to raise money, whether by taxation or loan, or to authorise a grant out of the Consolidated Fund, must be preceded by Ways and Means or Supply resolutions passed by the House². The most common example of a bill founded on such a resolution, in this instance a Ways and Means resolution, is the annual Finance Bill, which is brought in on a number of resolutions involving taxation tabled by the Chancellor of the Exchequer immediately after the budget speech. Consolidated Fund Bills and Appropriation Bills are founded on resolutions which authorise the issue of money from the Consolidated Fund to meet expenditure as set out in the estimates, including supplementary estimates, votes on account and excess votes, which are laid before the House by the government.

Secondly, a member may, under what is usually known as the ten-minute rule, move for leave to bring in a bill at the commencement of public business on Tuesdays and Wednesdays and, if the motion is made by a Minister of the Crown, on Mondays and Thursdays also; if the motion is opposed the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the mover, and from a member who opposes the motion, must put either the question on it or the question that the debate be adjourned³.

When a member has obtained the leave of the House to bring in a bill, the Speaker asks who will prepare and bring in the bill. The member responsible then states the names of the other members who are acting with him in bringing it in, after which he leaves his seat and goes to the bar of the House. The Speaker calls him by name, and the member with the customary three bows walks to the table of the House and hands the 'dummy' bill to the clerk, who reads its short title. In reply to a question from the Speaker, the member chooses a day for the second reading of the bill.

1 le under HC Standing Orders (Public Business) (1997) no 57: see PARLIAMENT vol 78 (2010) PARA 971.

2 See PARLIAMENT vol 78 (2010) PARA 1028.

3 This procedure is set out in HC Standing Orders (Public Business) (1997) no 23; and see also PARLIAMENT vol 78 (2010) PARA 971.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(i) Presentation and First Reading/B. PROCEDURE IN THE HOUSE OF COMMONS/742. Presentation of bill brought from the House of Lords.

742. Presentation of bill brought from the House of Lords.

A bill brought from the House of Lords is proceeded with in the Commons only if a member is willing to take charge of it¹. He signifies his intention so to do at the table, and names a day for second reading. The bill is then deemed to have been read the first time and to have been ordered to be read a second time upon the named day, and is ordered to be printed².

1 No member of the House of Commons except a Minister of the Crown may take up a bill brought from the House of Lords which has as its main object the creation of a charge on the public revenue: see HC Standing Orders (Public Business) (1997) no 50; and see also PARLIAMENT vol 78 (2010) PARA 1060.

2 See *ibid* no 57(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/743. Second reading generally.

(ii) Second Reading

743. Second reading generally.

The second reading is the stage at which the House of Parliament which is considering the bill is called upon either to affirm or to reject the principle upon which it is based. Strictly it is irregular in both Houses for members to discuss the details of clauses during a second reading debate, but debate is not confined to the contents of the bill and other methods of attaining its objects may be considered. It is also permissible to indicate the general nature of amendments which may be proposed¹.

¹ For the detailed application of the rules governing debate on second reading in both Houses see Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22.

UPDATE

743 Second reading generally

TEXT AND NOTES--As to the requirement to make a statement of compliance with Convention rights see PARA 743A.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/743A. Statement of compliance with Convention rights.

743A. Statement of compliance with Convention rights.

A Minister of the Crown in charge of a Bill in either House must, before second reading, make a statement to the effect that either (1) in his view the provisions of the Bill are compatible with Convention rights (ie specified rights guaranteed by the European Convention on Human Rights), or (2) although he is unable to make a statement of compatibility, the government nevertheless wishes the House to proceed with the Bill: Human Rights Act 1998 s 19(1). Such a statement must be in writing, and published in such manner as the Minister making it considers appropriate: s 19(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/744. Procedure on second reading.

744. Procedure on second reading.

The procedure with regard to the second reading of a bill is almost identical in both Houses of Parliament. When the order of the day for the second reading of the bill is read by the clerk at

the table, the member who is in charge of the measure moves that the bill be now read a second time. He takes this opportunity of explaining the main provisions of the bill and of recommending it to the House, after which a debate may ensue in which the opponents of the measure have an opportunity of expressing their objections to the principles which underlie the bill. If, in the Commons, when the order of the day is read, no motion is made to read the bill a second time, or the member in charge does not name a subsequent day for the second reading, the order lapses and a fresh order must be made before the second reading may be taken¹.

At the conclusion of a second reading debate, the question is put 'That the bill be now read a second time'. If such a motion is defeated, the bill is still technically before the House, since the question on what day the bill should be read remains open. Nevertheless, the practice in both Houses regarding bills which fail to secure a majority on second reading is to consider them conclusively rejected. Any such bill is removed from the order book of the House of Commons, as well as from the list of bills in progress in the House of Lords.

Alternatively, opponents of a bill may move an amendment to the effect that the second reading should not take place until the end of a specified period of time, commonly six months². If this course of action is agreed to, by either House, the resulting postponement is tantamount to the rejection of the bill, which is removed from the order book and the list of bills in progress and is not restored even if the session lasts beyond the period of postponement³.

Where a bill is rejected on second reading, on the motion, 'That the bill be now read a second time', or by the agreement of either House to an amendment to postpone second reading as above or to a reasoned amendment⁴, it cannot by a long-standing rule be reintroduced in substantially similar terms in the same session.

Other procedures may be used in the Commons for the second reading of bills referred to second reading committees, or to the Scottish, Welsh or Northern Ireland Grand Committees for consideration in relation to their principle⁵.

1 The House of Lords no longer makes orders of this kind.

2 For the form of the question put in the Commons on such motions see HC Standing Orders (Public Business) (1997) nos 31(1), 62(1).

3 In the Lords, it is possible to move the adjournment of second reading sine die or for a particular purpose, with or without notice or reasons, and the passing of such a motion does not prevent the motion for second reading from being set down for a subsequent day. In the Commons, if a private member's bill has not been printed and delivered to the Vote Office for issue to members before the House rises on the day preceding that appointed for second reading, the order made for reading the bill a second time on that day lapses. No further day may be appointed for second reading until the bill has been printed: see HC Standing Orders (Public Business) (1997) no 14(9); and see eg 136 HC Official Report (6th series) cols 1365-1370.

4 See PARA 745 post.

5 See PARAS 752-754 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/745. Reasoned amendment.

745. Reasoned amendment.

A member may oppose the motion for the second reading of a bill by moving, as an amendment to the original question, a motion stating definite reasons why the House should

not proceed further with the bill. The principle of relevancy in an amendment applies equally to a 'reasoned amendment'. It should relate to the bill before the House in question and should be one which, if carried, would state clearly the reason which had induced the House not to read the bill a second time. Therefore, a reasoned amendment should:

- 5 (1) declare some principle adverse to, or differing from, the principles of the bill;
- 6 (2) state definite grounds upon which it would be inexpedient for the House to proceed further with the bill; or
- 7 (3) demand that further information on the matters dealt with in the bill should be made available, before the House is asked to agree to a second reading, either by means of an inquiry by a Royal Commission or a select committee or by the production of papers or other evidence¹.

A bill is dropped for the session when an adverse amendment of this kind is carried.

In the House of Lords, but not in the House of Commons, it is in order to move a reasoned amendment in support of the second reading. The object of such an amendment is to invite the House to place on record a particular point of view while at the same time resolving that the bill be read a second time².

In the Commons, reasoned amendments are subject to the Speaker's power to select some for debate and not others³.

1 As to reasoned amendments see further Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22.

2 See eg 219 Lords Journals 45.

3 HC Standing Orders (Public Business) (1997) no 32.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/746. Effect of amendment being negated.

746. Effect of amendment being negated.

In the House of Lords the question 'That the bill be now read a second time' is put immediately after any amendment to the motion for the second reading has been negated. In the House of Commons, if an amendment to the effect that the second reading is to be deferred for six months¹ is negated, the Speaker is directed forthwith to declare the bill to be read a second time². If a reasoned amendment is negated, the Speaker is directed to put forthwith the question 'That the bill be now read a second time'³.

1 See PARA 744 ante.

2 See HC Standing Orders (Public Business) (1997) no 62(1).

3 See ibid no 62(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/747. Consolidation bills.

747. Consolidation bills.

In the House of Commons, the question for the second reading of consolidation bills, defined as public bills falling to be considered by the Joint Committee on Consolidation etc Bills¹, is put forthwith, without debate². In the House of Lords there is no restriction on debate, but in most cases the only speech is a short one from the Lord Chancellor when moving the second reading of the bill.

1 See PARA 844 post.

2 HC Standing Orders (Public Business) (1997) no 58(3). As to the procedure in the Commons on the subsequent stages of these bills see PARA 843 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/748. Law Commission bills.

748. Law Commission bills.

Public bills, other than private members' bills or consolidation bills, the main purpose of which is to give effect to proposals contained in a report of either Law Commission stand automatically referred to a second reading committee in the House of Commons unless the House otherwise orders or the bill is referred to the Scottish Grand Committee¹. A motion that the bill should no longer stand referred to a second reading committee is put forthwith if made by a minister at the commencement of public business².

1 HC Standing Orders (Public Business) (1997) no 59(1). As to these committees see PARAS 784-790 post. As to the Law Commission see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 957; STATUTES vol 44(1) (Reissue) PARA 1244. The Law Commission has recommended various changes in parliamentary procedure to facilitate the enactment of non-controversial bills based on its proposals: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) Appendix 3.

2 HC Standing Orders (Public Business) (1997) no 59(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/749. Tax simplification bills.

749. Tax simplification bills.

A motion may be made in the House of Commons by a Minister of the Crown at the commencement of public business that a specified government bill, which has been presented to or brought in upon an order of that House, be proceeded with as a tax simplification bill¹. Upon the making of such an order, the bill stands referred to a second reading committee², unless the House otherwise orders³. After second reading the bill is committed to the Joint Committee on Tax Simplification Bills⁴.

1 HC Standing Orders (Public Business) (1997) no 60(2). Such a motion may not be made in respect of a bill sent to the Commons by the Lords.

2 See PARA 784 post.

3 The question on a motion made by a Minister of the Crown at the commencement of public business that a tax simplification bill should no longer stand referred to a second reading committee is put forthwith: HC Standing Orders (Public Business) (1997) no 60(4).

4 As to the joint committee see PARLIAMENT vol 78 (2010) PARA 989.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/750. Consolidated Fund Bills.

750. Consolidated Fund Bills.

The question for the second reading of a Consolidated Fund Bill and an Appropriation Bill is put forthwith¹.

1 HC Standing Orders (Public Business) (1997) no 56.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/751. Reference of a bill in the House of Commons to a second reading committee.

751. Reference of a bill in the House of Commons to a second reading committee.

When a bill has been printed and delivered to the Vote Office, a motion, of which at least ten days' notice has been given, may be made by a minister at the commencement of public business that the bill be referred to a second reading committee. The question is put without amendment or debate and, if at least 20 members by rising in their places signify their objection, the Speaker must declare that the noes have it¹.

In the case of private members' bills, the member in charge may, with the leave of the House of Commons, make a motion at the commencement of public business, on a day on which such bills have precedence, to refer his bill to a second reading committee. The question to proceed in this manner is put forthwith, and if agreed to will supersede the House's order to read the bill a second time on that or a future day. Ten days' notice of this motion is required, which may not be given until the bill has been printed and delivered to the Vote Office. The motion itself may not be made until the eighth Friday on which private members' bills have precedence².

When subsequently in the House a motion is made for the second reading of a bill reported from a second reading committee, the question is put forthwith³.

1 HC Standing Orders (Public Business) (1997) no 90(1); and see also PARA 784 post. As to the automatic reference of Law Commission bills to a second reading committee see PARA 748 ante; and as to tax simplification bills see PARA 749 ante.

2 Ibid no 90(2). As to private members' bills see also PARA 741 ante; and as to the proceedings in second reading committees see PARA 784 post.

3 Ibid no 90(6). It has been recommended that greater use be made of second reading committees: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) paras 38-40, 94.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(ii) Second Reading/752. Second reading in the House of Commons of bills relating exclusively to Scotland.

752. Second reading in the House of Commons of bills relating exclusively to Scotland.

If after a public bill has been printed, whether introduced in the House of Commons or brought from the House of Lords, the Speaker of the House of Commons is of the opinion that its provisions relate exclusively to Scotland, a certificate to that effect is given¹. When the order for the second reading of such a bill is read, a Minister of the Crown may make a motion, to be decided without amendment or debate, to refer the bill to the Scottish Grand Committee for consideration in relation to its principle². A motion in similar terms may, with the leave of the House, be made in respect of a private member's bill by the member in charge of the bill.

Once the committee has reported that it has considered the bill in relation to its principle, the House orders the bill to be read a second time on a future day. When on the appointed day the order for second reading is read, a Minister of the Crown may make a motion, again to be decided without amendment or debate, to commit the bill to a Scottish Standing Committee or to a special standing committee³. Such a motion, if made by a private member, requires the leave of the House. If the motion is agreed to, the bill is deemed to have been read a second time and committed accordingly⁴.

1 The certificate is not to be withheld by reason only that a provision of the bill in question makes minor consequential amendments to enactments extending to England and Wales or Northern Ireland, or amends certain parts of the Parliamentary Commissioner Act 1967 or the House of Commons Disqualification Act 1975: see HC Standing Orders (Public Business) (1997) no 97(1).

2 As to the proceedings of the Scottish Grand Committee in its consideration of bills relating to their principle see PARA 785 et seq post.

3 As to the proceedings of these committees see PARAS 803-804 post.

4 This procedure is governed by HC Standing Orders (Public Business) (1997) no 97.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(ii) Second Reading/753. Second reading in the House of Commons of bills relating to Wales.

753. Second reading in the House of Commons of bills relating to Wales.

When a bill has been printed and delivered to the Vote Office, a motion, of which not less than ten days' notice has been given, may be made by a Minister of the Crown at the commencement of public business that the bill be referred to the Welsh Grand Committee. The question is put without amendment or debate and, if at least 20 members by rising in their places signify their objection, the Speaker must declare that the noes have it¹. When subsequently in the House a motion is made for the second reading of a bill reported from the Welsh Grand Committee, the question on it is decided forthwith².

- 1 HC Standing Orders (Public Business) (1997) no 106(1). As to the Welsh Grand Committee see PARA 791 post.
- 2 Ibid no 106(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ii) Second Reading/754. Second reading in the House of Commons of bills relating to Northern Ireland.

754. Second reading in the House of Commons of bills relating to Northern Ireland.

A motion may be made by a Minister of the Crown, when the order is read for second reading of a bill relating exclusively to Northern Ireland, 'That the bill be referred to the Northern Ireland Grand Committee'. The member in charge of a private member's bill may also make such a motion with the leave of the House. The question on such a motion is put forthwith¹.

When following the report of the Northern Ireland Grand Committee a motion is made in the House for the second reading of the bill, the question thereon is put forthwith².

- 1 HC Standing Orders (Public Business) (1997) no 113(1). As to the proceedings of the Northern Ireland Grand Committee on bills referred to it in relation to their principle see PARA 796 et seq post.
- 2 Ibid no 113(4).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(A) In general/755. General rule as to commitment.

(iii) Committee Stage

A. PROCEDURE IN THE HOUSE OF LORDS

(A) IN GENERAL

755. General rule as to commitment.

In the House of Lords, as soon as a public bill has been read a second time it usually stands committed to a committee of the whole House¹. There are, however, a number of exceptions to this procedure².

- 1 See HL Standing Orders (Public Business) (1994) no 45(1).
- 2 See PARA 756 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(A) In general/756. Exceptions to rule.

756. Exceptions to rule.

Instead of committing a public bill to a committee of the whole House, a motion may be made to commit a public bill to one of the following committees: a Grand Committee¹, a public bill committee², a special public bill committee³ or a Scottish select committee⁴. A motion to commit a public bill to any of these committees may be made by any member and may be debated. Notice of any such motion is required.

Apart from commitment as described above, a public bill may be referred at any time between second reading and third reading to a select committee of the House or to a joint committee of the two Houses⁵. Consideration by a select or joint committee is additional to, and not instead of, consideration by a committee of the whole House, a Grand Committee, a public bill committee or a special public bill committee.

Certain bills⁶ are referred as a matter of course to the Joint Committee on Consolidation etc Bills⁷, and upon the receipt of that committee's report are then recommitted to a committee of the whole House.

Occasionally, and particularly in the case of a purely financial bill, a motion that the bill be not committed is moved immediately after second reading. If this is agreed to, the bill proceeds to third reading on a subsequent day, and thus both committee stage and report stage are omitted.

1 For the procedure in a Grand Committee see PARA 764 post.

2 For the procedure in a public bill committee see PARA 765 post.

3 For the procedure in a special public bill committee see PARA 766 post.

4 For the procedure in a Scottish select committee see PARA 767 post.

5 See PARLIAMENT vol 78 (2010) PARAS 872, 879. For the procedure in a select or joint committee on a public bill see PARA 811 post.

6 I.e Consolidation bills, statute law revision bills, and statute law repeal bills: see PARA 843 post.

7 See PARA 843 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(A) In general/757. Instructions.

757. Instructions.

A motion to give an instruction to a committee on a bill may be moved at any time between second reading and committee stage. An instruction may be permissive, to enable the committee to do something it could not otherwise do (such as divide the bill in two)¹, or may be mandatory, to require the committee to do something (for example to consider the clauses and Schedules of the bill in a particular order)².

1 Eg a permissive instruction was moved on 13 May 1936 to commit the Malta (Letters Patent) Bill to a select committee and to divide it into two: 168 Lords Journals 197.

2 Eg an instruction was moved on 7 June 1995 that the clauses and Schedules of the Child Support Bill be considered in a particular order: 228 Lords Journals 457. As to instructions see further Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(A) In general/758. Notice of committees.

758. Notice of committees.

Notice of the date of a committee on a bill is given either on the order paper (for committees of the whole House, Grand Committees, public bill committees and special public bill committees), or (for select committees, joint committees and Scottish select committees) on the committee sheet which is appended to the minutes of proceedings each day¹.

¹ As to the minutes of proceedings see PARLIAMENT vol 78 (2010) PARA 869.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(A) In general/759. Amendments.

759. Amendments.

Amendments may be made by any committee to which a bill may be committed, except a Scottish select committee. Amendments to a bill may be handed in to the Public Bill Office or, in recesses, sent to the Clerk of the Parliaments, as soon as the bill has been read a second time. In the unusual event that second reading and committee stage are to take place on the same day, amendments are accepted before second reading. There is no selection of amendments in the Lords, and each amendment tabled is printed and circulated as soon as possible after it has been received. Before the committee stage is taken, there is printed and circulated a list, known as the 'marshalled list', in which all the amendments are arranged in the order in which they will be called, and numbered¹.

The clauses and Schedules of the bill are considered in numerical sequence unless an instruction varying that sequence has been agreed to by the House². Within this general framework, there are certain rules which prescribe the order in which amendments are called. The governing principle is that amendments are considered in the order of their page, line and word reference in the bill, with the exception that amendments to the preamble and to the title are considered last. Amendments to leave out words are put before amendments to leave out the same words and substitute others. Amendments to leave out any block of text other than a clause or Schedule, for example a subsection or a line, come before any amendments to the text. All amendments to a clause or Schedule are considered before an amendment to leave out an entire clause or Schedule. Amendments to a proposed new clause or Schedule are considered before the clause or Schedule itself is proposed to the committee. When two lords table an amendment to the same place in the bill their amendments are marshalled in the order in which they were handed in, except that an amendment tabled by the lord in charge of the bill is given priority.

¹ Manuscript amendments, ie amendments of which notice has not been given, may be moved. In such a case the text of the amendment is read out to the committee, or the House, both by the lord moving it and by the lord in the chair when he puts the question. Such amendments, however, have great disadvantages in that other lords will not have had an opportunity to consider them or to move amendments to them. They are therefore frowned upon except in special circumstances: for example, in order to correct an amendment

already tabled, or where an amendment under consideration is objected to but it is clear that with a slight alteration of language it would become acceptable to the committee.

2 See PARA 757 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(B) Committee of the whole House/760. Motion for going into committee of the whole House.

(B) COMMITTEE OF THE WHOLE HOUSE

760. Motion for going into committee of the whole House.

Upon the motion being read for the House of Lords to go into committee, the lord who is in charge of the bill moves 'That the House do now resolve itself into a committee upon the bill'. This motion is then put from the Woolsack, but before it is agreed to by the House it may be objected to on the grounds that sufficient time has not been allowed for framing amendments or for other reasons. The opportunity may also be taken on this motion for explaining the general tenor of groups of amendments or other matters relevant to the committee stage¹.

If, at the time appointed for the House to go into committee on a bill, no amendment has been set down and it appears that no lord wishes to speak to a clause or Schedule of the bill or to move a manuscript amendment, the lord in charge of the bill may move 'That the order of commitment be discharged'. Notice of any such motion must be given on the order paper and the question may not be put on the motion if a single lord objects². If such a motion is agreed to the bill proceeds directly to third reading on a subsequent day, and both committee and report stage are thus omitted.

¹ See eg 567 House of Lords Official Report (5th series), 18 December 1995, cols 1407-1412 (Criminal Procedure and Investigations Bill).

² HL Standing Orders (1994) (Public Business) no 45(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(B) Committee of the whole House/761. Procedure in committee of the whole House.

761. Procedure in committee of the whole House.

As soon as the motion to go into committee has been agreed to by the House of Lords, the Lord Chancellor (or whoever is sitting in his place) leaves the Woolsack and the Chairman of Committees, or one of the Deputy Chairmen, takes his seat at the table and presides over the committee.

The standing order forbidding more than one speech on any motion does not apply when the House is in committee¹.

The title of the bill and its preamble, if there is one², are postponed until consideration of the clauses and Schedules has been concluded. The chairman puts the two questions separately: 'That the title be postponed' and 'That the preamble be postponed'.

The clauses are considered in numerical sequence unless an instruction varying that sequence has been agreed to by the House³. The chairman calls each clause in turn by its number. Any amendments to the clause are taken in sequence. The chairman calls the lord in whose name the amendment stands⁴. As soon as he has moved his amendment the chairman puts the question 'That this amendment be agreed to'. Any amendments to the original amendment are then taken. Once an amendment has been moved it may not be withdrawn except by leave of the committee, which must be unanimous. Amendments to the original amendment must be disposed of before the question is finally put on the original amendment.

When all the amendments to a clause have been disposed of the chairman puts the question 'That clause ... [or clause ... as amended] stand part of the bill'. On this question any lord who wishes to propose the omission of the clause addresses the committee. The committee may, upon motion, postpone a clause which is then taken up later, provided no amendment has already been made to the clause. When the clause has been disposed of consideration of it cannot be resumed by the committee.

Schedules are treated in the same way as clauses, and amendments to a Schedule are dealt with in the same manner as amendments to clauses. An amendment to a Schedule is out of order, however, if it goes outside the scope of, or is contrary to, the clause introducing the Schedule, to which the House has agreed. The question is put on each Schedule: 'That this be Schedule ... to the bill' or 'That this Schedule as amended be Schedule ... to the bill'.

A new clause or a new Schedule is treated as an ordinary amendment and may be proposed when the committee reaches the place where it is desired to insert it. Amendments to these proposed clauses or Schedules are dealt with in the same way as amendments to existing clauses or Schedules.

Once the committee has gone through the clauses and Schedules the chairman puts the questions 'That this be the preamble of the bill' (if there is one) and 'That this be the title of the bill'. Once the preamble and the title have been agreed to, the consideration of the bill in committee is concluded.

1 See HL Standing Orders (Public Business) (1994) no 28(1)(a); and PARLIAMENT vol 78 (2010) PARA 865.

2 It is now unusual to have a preamble to a public bill, except in some bills of constitutional importance or certain bills to give effect to international conventions: see STATUTES vol 44(1) (Reissue) PARA 1265. For examples of preambles see the Endangered Species (Import and Export) Act 1976; the Foreign Boycotts Bill 1978; and the Canada Act 1982.

3 See PARA 757 ante.

4 If the lord in whose name an amendment stands is absent, the amendment may be moved by another lord on his behalf.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(B) Committee of the whole House/762. House resumed.

762. House resumed.

At the conclusion of the proceedings of a committee of the whole House, the Chairman of Committees puts the question 'That the House be resumed'. When this is agreed to, the Lord Chancellor (or one of the deputy speakers) returns to the Woolsack and the chairman leaves the chair. When the House is resumed, the chairman states that the committee of the whole House to whom the [named] bill was committed has gone through the bill and directs him 'to report it to your lordships with amendments [or without amendment]'. If the committee of the

whole House does not go through the whole bill at one sitting, a motion is made for the House to be resumed and a day is appointed for the resumption of the committee stage, when the committee proceeds from the point in the bill where it left off. The motion to resume the House may be moved at any time during the proceedings of the committee. It is also possible for the House to agree to a motion to recommit the bill wholly or partially¹.

1 See 228 Lords Journals 380 (Jobseekers Bill); and PARA 813 post.

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(B) Committee of the whole House/763. Report from a committee of the whole House received.

763. Report from a committee of the whole House received.

If a bill is reported from a committee of the whole House without amendment, the lord in charge of it may move forthwith 'That this report be now received'. If this motion is agreed to, the next stage is the third reading.

However, it is now common to postpone the receipt of the report to a later date even though the bill has passed through a committee of the whole House without amendment. In this case the lord in charge of the bill does not move the motion for receiving the report forthwith and it is tabled for a subsequent day when amendments, in some instances to implement undertakings given in committee, may be moved to the bill¹.

If the bill has been amended the report is received on a later date and an order is made for the bill to be reprinted as amended.

1 See the *First Report of the Select Committee on Procedure of the House* (HL 16 (1956-57)), 189 Lords Journals 38; and see eg 226 Lords Journals 346, 390 (Bankruptcy (Scotland) Bill).

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(C) Other Committees/764. Grand Committees.

(C) OTHER COMMITTEES

764. Grand Committees.

The experimental use of committees of the whole House off the floor of the House of Lords was recommended by the Leader's Group on Sitings of the House in 1994¹. The procedure was subsequently made permanent², and the committee renamed 'Grand Committee'. These committees may be used for any kind of bill and are intended to save time on the floor of the House. The procedure was first used during the passage of the Children (Scotland) Bill in 1995.

When it is intended to consider a bill in a Grand Committee, the bill is committed to a committee of the whole House at the end of second reading by motion³. Instructions to Grand Committees may be given in the same way as they are given to committees of the whole House on the floor⁴.

Procedure in a Grand Committee is the same as procedure in committee of the whole House on the floor of the House⁵, except that no divisions may take place. Amendments may be moved and, if they are not withdrawn, are either agreed or negatived without division. The Chairman of Committees or one of his deputies takes the chair. All lords are free to attend and participate and other business on a different subject matter may be conducted simultaneously in the Chamber. At the end of the committee's consideration the next stage is the report stage. An Official Report (Hansard) is produced for Grand Committees⁶.

1 HL Paper 83 (1993-94), approved 20 July 1994; subsequent debate 2 November 1994.

2 See the *First Report of the Select Committee on Procedure of the House* (HL Paper 8 (1995-96)), agreed to on 13 December 1995, 567 HL Official Report (5th series), cols 1279-1288. See also the *First Report of the Select Committee on Procedure of the House* (HL Paper 20 (1996-97)), agreed to on 21 January 1997; 577 HL Official Report (5th series), cols 554-559.

3 See eg 564 HL Official Report (5th series), 9 May 1995, col 58 (Children (Scotland) Bill).

4 See PARA 757 ante.

5 See PARA 761 ante.

6 See eg 564 HL Official Report (5th series), 6 June 1996, cols CWH1-CWH66 (Children (Scotland) Bill).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/A. PROCEDURE IN THE HOUSE OF LORDS/(C) Other Committees/765. Public bill committees.

765. Public bill committees.

A bill may be committed by motion after second reading to a public bill committee, which is a select committee consisting of a limited number of lords (usually about 14), together with the Chairman of Committees or one of the deputy chairmen in the chair¹.

The members of a public bill committee are appointed by the House of Lords on the proposal of the Committee of Selection². The procedure observed is, so far as possible, the same as that observed in a committee of the whole House³. Lords not members of the committee may attend, speak and move amendments, but they may not vote⁴. Amendments are printed and circulated as for a committee of the whole House. A separate Official Report is produced for each public bill committee⁵.

At the end of the public bill committee's consideration, the next stage (unless the House agrees to a motion to recommit the bill to a committee of the whole House) is report stage.

1 At the date at which this volume states the law, no bills had been committed to a public bill committee following the introduction of special public bill committees: see PARA 766 post.

2 As to the Committee of Selection see PARLIAMENT vol 78 (2010) PARA 889.

3 See PARA 761 ante.

4 HL Standing Orders (Public Business) (1994) no 63.

5 See eg HL Official Report of the Committee on the Trade Marks Bill, 13-20 January 1994.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(iii) Committee Stage/A. Procedure in the House of Lords/(C) Other Committees/766. Special public bill committee.

766. Special public bill committee.

At the end of second reading, a bill may be committed to a special public bill committee¹. Such committees (which were until July 1994 called 'Special Standing Committees') were at first used experimentally for bills which were introduced in the Lords and which were largely devoid of party-political controversy (such as Law Commission bills)². The procedure is now permanent, and there is no restriction on the type of bill which may be so committed³.

The members of the committee (numbering about 10) are appointed by the House on the proposal of the Committee of Selection⁴. For a period of 28 days (excluding recesses) from the day of its appointment, the committee is empowered to take written and oral evidence from parties interested in the bill in question. Once the 28-day period has expired, the committee takes the form of a public bill committee⁵, and considers the bill clause by clause.

1 See eg 561 HL Official Report (5th series), 23 February 1995, col 1272 (Family Homes and Domestic Violence Bill [HL]).

2 See the *First Report of the Select Committee on Procedure of the House* (HL Paper 11 (1992-93)).

3 See the *Third Report of the Select Committee on Procedure of the House* (HL Paper 81 (1993-94)), 227 Lords Journals 586; and the *First Report of the Select Committee on Procedure of the House* (HL Paper 9 (1994-95)), 228 Lords Journals 45-47.

4 See eg 561 House of Lords Official Report (5th series), 2 March 1995, col 1586 (Family Homes and Domestic Violence Bill [HL]).

5 See PARA 765 ante.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(iii) Committee Stage/A. Procedure in the House of Lords/(C) Other Committees/767. Scottish select committee.

767. Scottish select committee.

Government bills originating in the House of Lords which relate only to Scotland may be committed after second reading to a Scottish select committee¹. The members of Scottish select committees are appointed by the House on the proposal of the Committee of Selection. They are empowered to meet in Scotland to take evidence on the bill for a period of 28 days (excluding recesses) from the date of appointment of the committee. Such committees may not amend the bill. The written and oral evidence received by the committee is printed together with the committee's report and made available to the House. A bill which has been committed to a Scottish select committee is then recommitted to a committee of the whole House.

1 See the *Second Report of the Select Committee on Procedure of the House* (HL Paper 15 (1995-96)), agreed to by the House on 19 December 1995.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(A) In general/768. General rule as to committal.

B. PROCEDURE IN THE HOUSE OF COMMONS

(A) IN GENERAL

768. General rule as to committal.

In the House of Commons, as soon as a public bill has been read a second time, it stands committed to a standing committee¹. There are, however, a number of exceptions to this procedure².

1 See HC Standing Orders (Public Business) (1997) no 63(1).

2 See PARA 769 post. The Select Committee on Modernisation of the House of Commons has recommended various changes to procedure at committee stage: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) paras 41-49, 95-98.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(A) In general/769. Exceptions to rule.

769. Exceptions to rule.

A motion may be made to commit a public bill to a committee of the whole House, to a select committee, to a special standing committee or to a joint committee of both Houses. Such a motion may be made by any member and, if made immediately after the bill has been read a second time, does not require notice. The question on the motion is put forthwith¹.

A member who is in charge of a bill may move that some of its provisions be committed to a standing committee and others to a committee of the whole House. If this motion is opposed, the Speaker, after permitting a brief explanatory statement from the member who makes the motion and from a member who opposes it, is directed to put the question without further debate.

A motion that a consolidation bill be not committed, if made by a Minister of the Crown immediately after a bill has been read a second time, is decided forthwith². No order is made for the committal of Consolidated Fund or Appropriation Bills³. The committal of bills considered in relation to their principle by the Scottish Grand Committee and the Northern Ireland Grand Committee is considered below⁴. Tax simplification bills stand referred to the joint committee on such bills once they have been read a second time. After the joint committee has reported, they stand recommitted to a committee of the whole House, though a motion may be made to discharge that order⁵.

1 See HC Standing Orders (Public Business) (1997) no 63(2); HC Standing Orders (Private Business) (1991) no 217. As to select committees see PARA 809-812 post; and as to joint committees see PARLIAMENT vol 78 (2010) PARAS 879-881. As to the procedure see PARA 770 et seq post.

2 HC Standing Orders (Public Business) (1997) no 58(4).

3 Ibid no 56.

4 See PARAS 752, 754 ante, 788, 799 post.

5 Such a motion may be made without notice immediately after the order for committee is read and the question is put forthwith.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(B) Committee of the whole House/770. Consideration by a committee of the whole House.

(B) COMMITTEE OF THE WHOLE HOUSE

770. Consideration by a committee of the whole House.

During the ordinary progress of a public bill, it is customary to allow some days to elapse between second reading and its consideration by a committee of the whole House. No rule of the House of Commons, however, forbids the taking of several or all stages of a bill on the same day, with the exception of a bill introduced on a financial resolution, although Consolidated Fund and Appropriation Bills are exempted from this prohibition¹.

When the order of the day is read for the House to go into committee on a bill which has been committed to a committee of the whole House and the Speaker has left the chair², the Serjeant at Arms places the mace below the table, the Chairman of Ways and Means or, in his absence, one of the deputy chairmen or temporary chairmen³ takes his seat at the table in the place usually occupied by the Clerk of the House, and the consideration of the bill is begun forthwith. The preamble, if there is one, stands postponed⁴, and the clauses and Schedules of the bill are then considered⁵.

If the committee is unable to conclude the consideration of a bill before the moment arrives to interrupt business⁶, the chairman leaves the chair, without question put, to report progress. The mace is then replaced on the table, the Speaker returns to his chair, and the House is informed by the chairman, or by another member (usually a government whip) that the committee has made progress with the bill and asks leave to sit again. The member who is in charge of the bill, in reply to a question from the Speaker, then fixes the day when the committee is to sit again.

The motion to report progress and ask leave to sit again may be moved by a member who wishes to interrupt the committee's consideration of a bill. Another form of motion available to a member who wishes to bring the proceedings of the committee to a temporary conclusion is that the chairman do now leave the chair. This may be used alternately with that previously mentioned.

If either motion is carried, the chairman leaves the chair to make the appropriate report, and the House is resumed. The effect on the business before the committee is, however, different according to the motion agreed to. If the committee has agreed to report progress, the business under consideration stands over until a future sitting of the House nominated, at the time the report is made, by the member in charge of the business, and is resumed on that day at the appropriate point. If, however, the chairman has been ordered to leave the chair, no future day for the resumption of the business is immediately nominated in the House. The order for committee is superseded, though it may be revived on a subsequent day by order of the House⁷.

These dilatory motions are debatable subject to the discretion of the chair, which is also empowered, where there appears to be an abuse of the rules of the House, either to decline to propose the question to the committee or to put the question forthwith for decision⁸.

A bill reported without amendment to the House by a committee of the whole House is ordered to be read the third time on a future day. There is no report stage unless amendments have been made in committee of the whole House.

- 1 HC Standing Orders (Public Business) (1997) no 56.
- 2 For the procedure if a motion is made for an instruction to be given to the committee see PARLIAMENT vol 78 (2010) PARA 939.
- 3 See PARLIAMENT vol 78 (2010) PARAS 940-942.
- 4 See PARA 761 ante; and HC Standing Orders (Public Business) (1997) no 67.
- 5 See PARA 772 et seq post.
- 6 As to the interruption of business see PARLIAMENT vol 78 (2010) PARA 963.
- 7 See Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 27.
- 8 See HC Standing Orders (Public Business) (1997) no 35.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(B) Committee of the whole House/771. Powers of the chairman.

771. Powers of the chairman.

The powers of the chairman of a committee of the whole House are similar to those of the Speaker in the chair of the House of Commons. He determines whether amendments are in order and exercises the power given to him by standing order to select some for debate and not others¹. Besides the power to deal with dilatory motions², the chairman is empowered to prevent irrelevance or repetition³, to maintain order in debate, and, if of opinion that the principle of a clause or Schedule has been adequately discussed on the amendments proposed to it, to put forthwith the question 'That the clause [or Schedule] stand part of the bill'⁴. The powers to accept a motion for the closure and to select amendments may, however, be exercised only by the Chairman of Ways and Means and the deputy chairmen, not by temporary chairmen⁵.

- 1 HC Standing Orders (Public Business) (1997) no 32(2).
- 2 Ibid no 35.
- 3 Ibid no 42.
- 4 Ibid no 68.
- 5 Ibid no 32(2).

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(iii) Committee Stage/B. Procedure in the House of Commons/(B) Committee of the whole House/772. Amendments.

772. Amendments.

In a committee of the whole House, unless an order is made making a different provision, the text is considered in the numerical order of the clauses standing in the bill, followed by new clauses, Schedules in the bill, new Schedules, preamble and title (if it needs amending). Amendments may be made to any part of the bill and to new clauses and new Schedules.

Although not obligatory, it is usual to give notice of amendments, because it is obviously for the convenience of the committee that members should make known as early as possible in what sense they wish the bill to be altered¹. Amendments of which notice has been given are printed on the notice paper of the House of Commons and are arranged in the order in which they ought to be taken. When two or more amendments are proposed to the same place in a clause, precedence is given to the amendment to leave out words and insert others, but where there is no such distinction, amendments in the name of the member in charge of the bill are given precedence, followed by the remainder in the order in which they were handed in. Amendments may be handed in as soon as a bill has been read a second time².

Certain rules govern the admissibility of amendments. An amendment must be relevant to the subject matter of the bill and of the clause to which it is proposed. It must not be inconsistent with the bill as so far agreed to by the committee or with a decision of the committee on an earlier amendment. It must not impose or increase a charge which is not within the terms of any ways and means or money resolution relating to the bill³.

¹ At the committee stage, and sometimes on report, manuscript amendments, ie amendments of which notice has not been given, may be moved. In such cases the text of the amendment may be read out to the committee (or the House) by the member moving the amendment and by the chairman (or the Speaker) when the question is put.

² The House not infrequently makes orders authorising the reception of amendments before a specified bill has been read a second time. Such a provision also exists permanently in standing orders in respect of consolidation bills: HC Standing Orders (Public Business) (1997) no 58(2).

³ For other amendments which are irregular see Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(iii) Committee Stage/B. Procedure in the House of Commons/(B) Committee of the whole House/773. Procedure on amendments.

773. Procedure on amendments.

In a committee of the whole House, the chairman calls the number of each clause in order, and, if it is proposed to amend a clause, he calls upon the member by name who has given notice of, or who has expressed his intention of, moving an amendment. As soon as the member who has been thus called upon has moved his amendment, the chairman reads out the terms of the proposed amendment to the committee and proposes the question 'That the amendment be made'¹. It is then permissible for any other member to move an amendment to this amendment. In such a case, the amendment is treated as if it were the original question, and any amendment to it must be disposed of before the amendment to the clause itself is put to the committee. Once an amendment has been moved, it may not be withdrawn except by

leave of the committee. A member is not bound to move an amendment standing in his name, but if he does not do so it can, if selected, be moved by another member.

1 HC Standing Orders (Public Business) (1997) no 31.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(B) Committee of the whole House/774. Consideration of clauses and Schedules.

774. Consideration of clauses and Schedules.

When all the amendments to a clause have been disposed of the question is put from the chair 'That the clause, as amended, stand part of the bill'. If no amendments have been made to the clause, the chairman puts the question 'That the clause stand part of the bill'. Any subsequent consideration of a clause which has been agreed to by the committee is out of order. Upon motion, a clause may be postponed, provided that it has not been amended, that no proposed amendment has been negatived and that the question for the standing part of the bill has not been proposed¹. An analogous procedure is followed as regards Schedules, on which the question put from the chair is 'That the Schedule [as amended] be the Schedule (or the second Schedule or other appropriate description) to the bill'.

1 For the procedure on postponed clauses generally see Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(B) Committee of the whole House/775. Consideration of new clauses and new Schedules.

775. Consideration of new clauses and new Schedules.

A proposed new clause is read the first time without question put¹. The reading of the marginal note by the clerk is taken as complying with this requirement. The principle of the clause must be affirmed before its details are considered by the committee. Therefore, the chairman proposes the question 'That the clause be read a second time'. If this is agreed to, amendments may be moved to the clause. As soon as the amendments to the clause have been disposed of by the committee, the chairman proposes the question 'That the clause [as amended] be added to the bill'. The same procedure is followed for new Schedules.

1 HC Standing Orders (Public Business) (1997) no 69.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(B) Committee of the whole House/776. Conclusion of consideration of a bill in committee.

776. Conclusion of consideration of a bill in committee.

When the consideration of a bill in committee of the whole House has been concluded, the chairman puts the question 'That I do report the bill without amendment [or as amended] to the House'. As soon as this question has been decided, he leaves the chair¹, the Speaker resumes his chair, and the chairman or another member, usually a government whip, reports that the committee has gone through the bill and directed him to report it with or without amendment, as the case may be².

1 HC Standing Orders (Public Business) (1997) no 70.

2 Ibid no 71.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(B) Committee of the whole House/777. Procedure after report of a bill from committee.

777. Procedure after report of a bill from committee.

If a bill is reported from a committee of the whole House without amendment, an order is made for it to be read the third time either forthwith or on some subsequent day. If a bill has been amended by the committee, the bill as amended may be considered immediately after the report has been received, but, as a general rule, a future day is fixed by the member in charge of the bill¹.

1 See HC Standing Orders (Public Business) (1997) nos 71, 72.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/778. Constitution of standing committees.

(C) STANDING COMMITTEES

778. Constitution of standing committees.

As many standing committees are appointed during a session as may be necessary for the consideration of bills or other business committed or referred to a standing committee¹. With the exception of the Scottish Grand Committee², the Welsh Grand Committee³, the Northern Ireland Grand Committee⁴, a standing committee for the consideration of a bill on report and a European Standing Committee⁵, a standing committee consists of not fewer than 16 nor more than 50 members nominated by the Committee of Selection to serve on that committee for the consideration of each bill committed to it⁶. In nominating members the Committee of Selection must have regard to the qualifications of members and to the composition of the House; and it has power to discharge members from time to time and to appoint others in their place⁷. If a bill is certified as relating exclusively to Scotland or is ordered to be considered by a Scottish standing committee, the standing committee considering it must include not fewer than 16

members representing Scottish constituencies⁸. If a bill relates exclusively to Wales, the standing committee considering it must include all members sitting for constituencies in Wales⁹. Government law officers who are members of the House of Commons may take part in the proceedings of standing committees other than the Standing Committee on Regional Affairs¹⁰, even though they have not been nominated members of the committee. They may not, however, vote or be counted in the quorum, and, except in certain cases, may not make any motion or move an amendment¹¹. Any Minister of the Crown who is a member of the House may, under the same limitations, take part in the deliberations of standing committees considering bills brought in on Ways and Means motions, in practice principally the annual Finance Bill¹².

Ministers may participate in the proceedings of the Scottish, Welsh and Northern Ireland Grand Committees and of European Standing Committees, provided they are members of the House; they are not counted in the quorum and may not vote, though they may make motions in the Grand Committees, and may make motions and move amendments in the European Standing Committees¹³.

1 HC Standing Orders (Public Business) (1997) no 84(1). There are, however, only two European Standing Committees. The Select Committee on Modernisation of the House of Commons has proposed various changes to the procedure in standing committees: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) paras 47-48.

2 See PARA 785 post.

3 See PARA 791 post.

4 See PARA 796 post.

5 See PARAS 805, 807 post.

6 HC Standing Orders (Public Business) (1997) no 86(1).

7 Ibid no 86(2).

8 Ibid no 86(2) proviso (i).

9 Ibid no 86(2) proviso (ii).

10 See PARA 808 post.

11 HC Standing Orders (Public Business) (1997) no 87(1).

12 Ibid no 87(2).

13 See ibid no 93(3), 102(4), 109(4), 119(5); and as to the position regarding ministers not members of the Commons in the Scottish Grand Committee, the Welsh Grand Committee and the Northern Ireland Grand Committee see PARAS 787, 793, 798 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/779. Sittings of standing committees.

779. Sittings of standing committees.

Standing committees may meet only on days on which the House sits, and only at Westminster, with the exception of the Scottish, Welsh and Northern Ireland Grand Committees. With these exceptions, the first meeting of a standing committee is fixed by the member who is appointed chairman. At that meeting, the committee will normally agree to a

resolution governing the further course of its business. Standing committees usually meet at 10.30 am, and adjourn at 1.00 pm. Afternoon sittings, which may not be held between 1.30 pm and 3.30 pm, may also be provided for in the committee's resolution¹. Sittings of standing committees (other than the Grand Committees) on Mondays are not common, and it is very rare indeed for a standing committee to sit on a Friday. Wednesdays are frequently though not invariably the day of meeting of the standing committee on which private members' bills have precedence².

The Scottish Grand Committee meets at 10.30 am at Westminster, and as specified in the order made by the House when it meets in Scotland. Proceedings are interrupted at the hour laid down in the order or, if no hour is specified, at 1.00 pm³. The Welsh Grand Committee may meet at Westminster at 10.30 am and between 4.00 pm and 6.00 pm. Meetings in Wales commence at the times mentioned in the order of the House making provision for the sittings. Arrangements for the interruption of business are similar to those applicable to the Scottish Grand Committee⁴. The Northern Ireland Grand Committee meets at hours specified by the House, whether at Westminster or in Northern Ireland, and the interruption of business is provided for in the same way as for the Scottish and Welsh Grand Committees⁵.

1 HC Standing Orders (Public Business) (1997) no 88(1).

2 As to private members' bills see PARA 735 ante.

3 See HC Standing Orders (Public Business) (1997) no 100(4). If in the opinion of the chairman proceedings on a bill or other business could be brought to a final conclusion by a short extension of the sitting, he may defer interrupting proceedings for a quarter of an hour: HC Standing Orders (Public Business) (1997) nos 88(2) (a), 100(4). Following the interruption of business, a debate of up to half an hour on a motion for the adjournment may be held: see PARA 785 post.

4 See HC Standing Orders (Public Business) (1997) no 108(3).

5 See *ibid* no 116(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/780. Chairmen of standing committees.

780. Chairmen of standing committees.

With the exception of special standing committees¹, the chairman of each standing committee is appointed by the Speaker from a panel to which, together with the Chairman of Ways and Means and the deputy chairmen, some 20 members are currently nominated². The Speaker is empowered to change the chairman so appointed from time to time³, and may appoint more than one chairman to a standing committee. The panel has power to report from time to time its resolutions on matters of procedure relating to standing committees. The quorum of the chairmen's panel is three⁴.

1 See PARA 803 post.

2 See HC Standing Orders (Public Business) (1997) nos 4, 85(1).

3 *Ibid* no 85(2).

4 *Ibid* no 85(4).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/781. Distribution of bills committed to standing committees.

781. Distribution of bills committed to standing committees.

The Speaker distributes bills among standing committees¹. Bills certified as relating exclusively to Scotland must be considered by a Scottish standing committee². Private members' bills, except those so certified, are allocated to the standing committee which the Committee of Selection has designated as that on which government bills shall not have precedence³, unless the member in charge of the bill requests its allocation to some other standing committee.

1 HC Standing Orders (Public Business) (1997) no 84(2). As to the consideration of bills in relation to their principle by Grand Committees see PARAS 752-754 ante, 785 et seq post.

2 See ibid no 101; and PARA 804 ante.

3 Ie under ibid no 84(3). Government bills have precedence on only one of the two Scottish standing committees: see no 101(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/782. Procedure on bills in standing committees.

782. Procedure on bills in standing committees.

Government bills allocated to a particular standing committee are considered in the order determined by the government. Private members' bills which are allocated to a standing committee (usually Standing Committee C or the second Scottish standing committee) on which, by the decision of the Committee of Selection, government bills do not have precedence, are considered in the order in which they were committed.

The procedure followed in a standing committee is assimilated as far as possible to that of a committee of the whole House¹. The principal powers of a chairman of a standing committee correspond to those of the Chairman of Ways and Means in the committee of the whole House. He may check irrelevance and repetition in debate, deal with dilatory motions, accept the closure, select which new clauses and amendments are to be proposed; and if of opinion that the principle of a clause or Schedule has been adequately discussed on the amendments proposed, he may put forthwith the question 'That the clause [or Schedule] stand part of the bill'². The chairman of a standing committee does not have the powers given by standing order to the Speaker and the deputy Speakers in the House to restrain disorderly conduct³. In a standing committee, the number of votes necessary to make a majority effective for the closure of a debate is the same as the number required for a quorum, usually 17, or one-third of the members of the committee excluding the chairman, whichever is the less⁴. In calculating the quorum fractions are counted as one. Strangers are admitted to standing committees, but they may be ordered to withdraw⁵.

1 As to committees of the whole House see PARA 770 et seq ante.

2 See HC Standing Orders (Public Business) (1997) no 89(3)(b), (c).

- 3 The powers in question are conferred by *ibid* no 43: see *PARLIAMENT* vol 78 (2010) PARA 960.
- 4 *Ibid* no 89(3)(d). For the quorum of the Scottish, Welsh and Northern Ireland Grand Committees see *PARAS* 785, 791, 796 post; and for that of the European Standing Committees see *PARA* 807 post.
- 5 *Ibid* no 89(2).

Halsbury's Laws of England/*PARLIAMENT* (VOLUME 34 (REISSUE)) *PARAS* 728-947/6. THE LEGISLATIVE WORK OF *PARLIAMENT*/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/783. Power of standing committees with regard to financial provisions.

783. Power of standing committees with regard to financial provisions.

Clauses or parts of clauses or provisions in a bill which create a charge on the people or on public funds are printed in italics and may not be considered by a standing committee until a resolution sanctioning the charge has been agreed to by the House¹. Similarly, amendments or new clauses proposed to a bill which would have the effect of extending its provisions beyond the cover of the House's resolution are out of order and will not be proposed to the committee by the chairman.

- 1 See *PARLIAMENT* vol 78 (2010) PARA 1024 et seq.

Halsbury's Laws of England/*PARLIAMENT* (VOLUME 34 (REISSUE)) *PARAS* 728-947/6. THE LEGISLATIVE WORK OF *PARLIAMENT*/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/784. Second reading committees.

784. Second reading committees.

A second reading committee is a standing committee¹ to consider a public bill which has been referred to it by the House of Commons². The committee must report to the House whether or not it recommends that the bill ought to be read a second time. If the recommendation is adverse, the committee may state the reasons for its conclusion. When subsequently a motion is made in the House for the second reading of a bill referred to a second reading committee, the question is put forthwith.

Law Commission bills stand automatically referred to a second reading committee³. Tax simplification bills stand referred to a second reading committee on the making of an order by the House that a specified government bill should be proceeded with as a tax simplification bill⁴.

- 1 See *HC Standing Orders* (Public Business) (1997) no 90(3). As to standing committees see *PARA* 778 et seq ante.
- 2 *Ie* under the procedure laid down in *ibid* no 90: see *PARA* 751 ante.
- 3 See *ibid* no 59(1); and *PARA* 748 ante. As to the Law Commission see *CONSTITUTIONAL LAW AND HUMAN RIGHTS* vol 8(2) (Reissue) *PARA* 957; *STATUTES* vol 44(1) (Reissue) *PARA* 1244.
- 4 See *PARA* 749 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/785. Scottish Grand Committee; composition and proceedings.

785. Scottish Grand Committee; composition and proceedings.

The Scottish Grand Committee is a standing committee consisting of all the members representing Scottish constituencies¹. The business of the committee includes oral questions, short debates, ministerial statements, bills referred for consideration or further consideration in relation to their principle, motions in respect of certain instruments, and substantive and other motions for the adjournment of the committee².

A motion made in the House of Commons by a Minister of the Crown (the question on which is put forthwith) may provide for sittings of the Scottish Grand Committee to be held on specified days in Scotland or at specified places in Scotland, as well as at Westminster. Such motions may also indicate which of certain categories of business within the committee's competence are to be taken on each such day, questions, short debates and (on not more than 12 days in any session) substantive motions for the adjournment³. The precedence of business at each sitting of the committee is determined by the government, except that on the days appointed for the consideration of substantive motions for the adjournment, those motions have precedence. The sittings of the committee at Westminster commence at 10.30 am and those in Scotland begin at the hour laid down in the House's order. The chairman interrupts the business then in progress at the hour prescribed by the order of the House if the sitting is in Scotland (or at 1.00 pm if no time is specified in the order) and at 1.00 pm at Westminster, in compliance with standing orders⁴. The committee's proceedings are concluded by the moving of a motion for the adjournment by a member of the government, leading to a debate of up to half an hour, on the model of the similar procedure in the House⁵.

1 HC Standing Orders (Public Business) (1997) no 93(1).

2 Ibid no 93(2).

3 For the Parliament beginning in May 1997, the number of days appointed for substantive motions for the adjournment was reduced to eight: see PARA 790 post.

4 HC Standing Orders (Public Business) (1997) no 100(1), (4).

5 Ibid no 100(6). The quorum of the Scottish Grand Committee in respect of the adjournment moved in order to conclude the proceedings of a sitting is three and not ten, as in the committee at other times.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/786. Scottish Grand Committee; questions and short debates.

786. Scottish Grand Committee; questions and short debates.

Notices of oral questions may be given by members of the Scottish Grand Committee for answer by Scottish Office ministers or Scottish law officers on days specified in the order of the House as those on which questions will be taken in the committee. Questions are taken as the first business of appropriate sittings, and no question may be taken later than three-quarters of

an hour after the commencement of proceedings. Notices of questions may be given ten sitting days before that on which an answer is desired¹.

Short debates, the subjects of which must relate to Scotland, are initiated by notices given by members of the committee for days which are specified appropriately in the order made by the House regarding the sittings of the Grand Committee. Such debates take place at the beginning of the sitting, or immediately after any questions which may be taken. The member who gave notice of the subject, and the Minister of the Crown replying to the debate, may each speak for five minutes. Other members participating may speak for three minutes. No member other than a Minister of the Crown replying to the debate is called to speak later than half an hour after the commencement of the first debate. Notices of subjects may be given ten sitting days before that on which they are sought to be raised².

1 HC Standing Orders (Public Business) (1997) no 94(1), (5).

2 Ibid no 95(1), (6).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/787. Scottish Grand Committee; ministerial statements.

787. Scottish Grand Committee; ministerial statements.

A Minister of the Crown, whether or not a member of the House of Commons¹, may be permitted to make a statement of which prior notice has been given to the chairman of the committee, and to answer questions put by members in connection with the statement.

Such statements may be made in order to facilitate the questioning of a minister (including a Scottish law officer) about a matter relating to his official responsibilities so far as they relate to Scotland, or announcing the policy of the government on a matter (or its response to an event) relating to Scotland.

Statements may be made at the commencement of a sitting or, following questions or short debates, if these are part of the business of the committee on the day in question. Statements to facilitate questioning are brought to an end either in conformity with an order of the committee (to which end a member of the government may immediately before the commencement of the proceedings on the statement make an appropriate motion, the question on which is put forthwith) or if there is no such order, after three-quarters of an hour. Statements announcing policy or responses are brought to a conclusion at the discretion of the chairman².

1 Ministers who are not members of the House of Commons may not make statements from the body of the committee, and are not permitted to vote, make any motion or be counted in the quorum: see HC Standing Orders (Public Business) (1997) no 96(4).

2 Ibid no 96(1)-(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/788. Scottish Grand Committee; legislation.

788. Scottish Grand Committee; legislation.

Bills referred to the Scottish Grand Committee are considered in relation to their principle. When the motion that it has considered the bill has been before the committee for a total of two and a half hours, not necessarily on the same day, the chairman puts the question required to dispose of the motion¹. The bill is then reported to the House of Commons as having been considered in relation to its principle (or, if the question has been decided in the negative, the chairman reports that the committee has come to no resolution)². These proceedings are analogous to second reading debate in the House³.

A bill which has been considered in relation to its principle by the Grand Committee may be again referred to that committee at a later stage for consideration on report⁴.

On the conclusion of proceedings on report of a government bill so referred to the Grand Committee, or on the order for third reading of such a bill being read in the House, a motion may be made by a Minister of the Crown that the bill should be referred once again to the Grand Committee. Such a motion is put forthwith. In the case of a private member's bill, the member in charge may make the motion to refer the bill once again to the Grand Committee; and the unanimous consent of the House is required for it to be agreed to. If such a motion is carried, the Grand Committee considers the bill on the motion, 'That the committee has further considered the bill in relation to its principle'. After a maximum of one and a half hours, not necessarily on the same day, the question is put from the chair. The chairman then reports the committee's resolution to the House or that the committee has come to no resolution. Bills so reported are ordered by the House to be read the third time on a future day; and on the appointed day the question for third reading is put forthwith⁵.

1 HC Standing Orders (Public Business) (1997) no 97(3). A Minister of the Crown may, immediately before the motion relating to the committee's consideration of the bill is moved, make without notice in the committee a motion to extend the time-limit for the consideration of the bill. The question thereon is put forthwith: no 97(3) proviso.

2 See *ibid* no 97(3).

3 See PARA 743 *et seq ante*.

4 See PARA 805 *post*. As to the Scottish Standing Committee see PARA 804 *post*.

5 See HC Standing Orders (Public Business) (1997) no 97(7), (8). The time limit may be extended in the same manner as that applicable to the first consideration of the bill in relation to its principle.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/789. Scottish Grand Committee; delegated legislation.

789. Scottish Grand Committee; delegated legislation.

A motion may be made in the House of Commons by a Minister of the Crown that certain instruments (or draft instruments) be referred to the Scottish Grand Committee. The instruments in question are those (including drafts but excluding draft deregulation orders) upon which proceedings may be taken under statute, in relation to which a Minister of the Crown has given notice of a motion for approval; those statutory instruments against which a 'prayer' has been tabled seeking their annulment; those, whether or not statutory

instruments, in respect of which a motion similar in intent to a 'prayer' but different in form, has been tabled; and those statutory instruments in relation to which a motion to take note has been tabled. The question on the motion to refer the instrument to the Grand Committee is put forthwith.

The Grand Committee has before it a motion that it has considered the instrument; and the debate may continue for an hour and a half, after which the chairman reports appropriately to the House. The substantive motion may then be put in the House for decision without amendment or debate¹.

1 See HC Standing Orders (Public Business) (1997) no 98.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/790. Scottish Grand Committee; substantive motions for adjournment.

790. Scottish Grand Committee; substantive motions for adjournment.

On not more than 12 days in a session, substantive motions for the adjournment of the committee have precedence in the Scottish Grand Committee¹. Six of these days are at the disposal of the government, and four at that of the Leader of the Opposition². The remaining two days are at the disposal respectively of the leader of the largest and next largest opposition party representing constituencies in Scotland, provided that at least three members were elected to the House of Commons as members of the party in question³. A member giving notice of the subject for debate on one of the days set aside for substantive motions for the adjournment must specify the matter to which he wishes to call attention. Ten days' notice of the subject of the motion must be given, and the subject must relate to Scotland.

1 HC Standing Orders (Public Business) (1997) no 99(1), (3).

2 For the Parliament beginning in May 1997, the standing order was varied so that in that Parliament four days were at the disposal of the government, two at that of the leader of the largest opposition party in Scotland and a similar number at the disposal of the leader of the next largest opposition party in Scotland.

3 For these purposes, the 'largest' and 'next largest' opposition parties in Scotland are defined as those parties, not being represented in Her Majesty's government, and of which the Leader of the Opposition is not a member, which have the largest and next largest number of members who represent constituencies in Scotland, and of which not fewer than three members were elected to the House as members of those parties: HC Standing Orders (Public Business) (1997) no 99(4).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/791. Welsh Grand Committee; composition and proceedings.

791. Welsh Grand Committee; composition and proceedings.

The Welsh Grand Committee is a standing committee consisting of all members sitting for constituencies in Wales together with not more than five other members nominated by the Committee of Selection¹. The business of the Grand Committee includes oral questions, short

debates, ministerial statements, bills referred for the committee's recommendation that they should or should not be read a second time, and consideration of matters relating exclusively to Wales².

A motion made in the House of Commons by a Minister of the Crown (the question on which is put forthwith) may provide for sittings of the Welsh Grand Committee to be held on specified days in Wales or at specified places in Wales, as well as at Westminster. Such motions may also indicate which of certain categories of business are to be taken on each such day: questions, short debates, bills and matters. The committee sits at 10.30 am, or at that time and also between 4.00 and 6.00 pm at Westminster, or in respect of sittings in Wales at such hour as may be specified by the order of the House. At the time fixed for the conclusion of the sitting, whether that prescribed in the order of the House in respect of sittings in Wales or, at Westminster, at 1.00 pm as applied to morning sittings by standing orders³ or 6.00 pm in the case of an afternoon sitting, the chairman interrupts the business then in progress⁴. The committee's proceedings are concluded by the moving of a motion for the adjournment by a Minister of the Crown, leading to a debate of up to half an hour, on the model of the analogous procedure in the House⁵.

1 HC Standing Orders (Public Business) (1997) no 102(1).

2 See *ibid* no 102(3).

3 *Ie* under *ibid* no 88: see PARA 779 ante.

4 *Ibid* no 108(3).

5 See *ibid* no 108(5). The quorum of the Welsh Grand Committee in respect of the adjournment motion is three and not seven as in the committee at other times: nos 102(2), 108(5).

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(iii) Committee Stage/B. Procedure in the House of Commons/(C) Standing Committees/792. Welsh Grand Committee; questions and short debates.

792. Welsh Grand Committee; questions and short debates.

Notices of oral questions may be given by members of the committee for answer by Welsh Office ministers on days specified in the order of the House of Commons as those on which questions will be taken in the committee. Questions are taken as the first business of appropriate sittings, and no question may be taken later than half an hour after the commencement of proceedings. Notices of questions may be given ten sitting days before that on which the answer is desired¹.

Short debates, the subjects of which must relate to Wales, are initiated by notices given by members of the committee for days which are specified appropriately in the order made by the House regarding the sittings of the Grand Committee. Such debates take place at the beginning of the sitting, or immediately after any questions which may be taken. The member who gave notice of the subject, and the Minister of the Crown replying to the debate, may each speak for five minutes. Other members participating may speak for three minutes. No member other than a Minister of the Crown replying to the debate is called to speak later than half an hour after the commencement of the first debate. Notices of subjects may be given ten sitting days before that on which they are sought to be raised².

1 HC Standing Orders (Public Business) (1997) no 103(1), (5).

2 See *ibid* no 104.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/793. Welsh Grand Committee; ministerial statements.

793. Welsh Grand Committee; ministerial statements.

A Minister of the Crown, whether or not a member of the House of Commons¹, may be permitted to make a statement on a matter relating to Wales of which prior notice has been given to the chairman of the committee, and to answer questions put by members in connection with the statement.

Statements may be made at the commencement of a sitting or, following questions or short debates, if these are part of the business of the committee on the day in question. Statements are brought to a conclusion at the discretion of the chairman².

1 Ministers who are not members of the House of Commons may not make statements from the body of the committee, and are not permitted to vote, make any motion or be counted in the quorum: HC Standing Orders (Public Business) (1997) no 105(4).

2 See *ibid* no 105(1), (2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/794. Welsh Grand Committee; legislation.

794. Welsh Grand Committee; legislation.

The Welsh Grand Committee must report to the House of Commons whether or not it recommends that a bill referred to it ought to be read a second time. If the recommendation is adverse, the committee may state the reasons for its conclusion¹.

1 See HC Standing Orders (Public Business) (1997) no 106.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/795. Welsh Grand Committee; matters relating exclusively to Wales.

795. Welsh Grand Committee; matters relating exclusively to Wales.

If the House of Commons agrees to a motion made by a Minister of the Crown that a specified matter or matters relating exclusively to Wales be referred to the Welsh Grand Committee, the committee considers the matter or matters, and reports only that it has done so¹.

1 HC Standing Orders (Public Business) (1997) no 107(1), (2). If the motion is made at the commencement of public business, the question thereon is put forthwith: no 107(1).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/796. Northern Ireland Grand Committee; composition and proceedings.

796. Northern Ireland Grand Committee; composition and proceedings.

The Northern Ireland Grand Committee is a standing committee consisting of all the members representing constituencies in Northern Ireland, together with not fewer than 25 other members nominated by the Committee of Selection¹.

The business of the committee includes oral questions, short debates, ministerial statements, bills referred for consideration or further consideration in relation to their principle, such legislative proposals and other specified matters as have been referred to it, instruments (whether or not in draft) referred to it, and motions for the adjournment².

A motion made in the House of Commons by a Minister of the Crown (the question on which is put forthwith) may provide for the sittings of the Northern Ireland Grand Committee to be held on not more than two specified days in Northern Ireland, at places to be named by the member appointed chairman of the committee, as well as at Westminster. Such motions may also indicate which of the categories of business within the committee's competence described above are to be taken on each such day³.

The quorum of the committee is normally seven⁴.

The sittings of the committee commence at the time specified in the order of the House. That order may also set a time for the interruption of the proceedings, but if it does not, the chairman interrupts business under consideration at 1 pm⁵.

1 HC Standing Orders (Public Business) (1997) no 109(1).

2 See *ibid* no 109(3).

3 See *ibid* no 116(1),

4 *Ibid* no 109(2); but see no 116(5).

5 See *ibid* no 116(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/797. Northern Ireland Grand Committee; questions and short debates.

797. Northern Ireland Grand Committee; questions and short debates.

Notices of oral questions may be given by members of the committee for answer by Northern Ireland Office ministers on a day specified in the order of the House of Commons. Questions are taken at the commencement of the sitting, and no question may be taken more than half an

hour after the start of proceedings. Notices of questions may be given ten sitting days before that on which an answer is desired¹.

Short debates, the subject of which must relate to Northern Ireland, are initiated by notices given by members of the committee for a day specified appropriately in the order made by the House regarding the sittings of the committee. Such debates take place at the beginning of the sitting, or immediately after any questions which may be taken. The member who gave notice of the subject and the minister replying to the debate may each speak for five minutes. Other members participating may speak for three minutes. No member other than a Minister of the Crown replying to the debate is called to speak later than half an hour after the commencement of the first debate. Notices of subjects may be given ten sitting days before that on which they are sought to be raised².

1 HC Standing Orders (Public Business) (1997) no 110(1), (5).

2 See *ibid* no 111.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/798. Northern Ireland Grand Committee; ministerial statements.

798. Northern Ireland Grand Committee; ministerial statements.

A Minister of the Crown, whether or not a member of the House of Commons¹, may be permitted to make a statement on a matter relating to Northern Ireland, of which prior notice has been given to the chairman of the committee, and to answer questions put by members in connection with the statement.

Such statements may be made at the commencement of a sitting, or following questions or short debates, if these are part of the business of the committee on the day in question. Statements are brought to a conclusion at the discretion of the chairman².

1 Ministers who are not members of the House of Commons may not make statements from the body of the committee, and are not permitted to vote, make any motion, or be counted in the quorum: HC Standing Orders (Public Business) (1997) no 112(4).

2 See *ibid* no 112(2), (3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/799. Northern Ireland Grand Committee; legislation.

799. Northern Ireland Grand Committee; legislation.

Bills referred to the Northern Ireland Grand Committee are considered in relation to their principle¹. When the motion that it has so considered a bill has been before the committee for a total of two and a half hours, not necessarily on the same day, the chairman puts the question required to dispose of the motion. The bill is then reported to the House of Commons as having been considered in relation to its principle (or, if the question has been decided in the negative,

the chairman reports that the committee has come to no resolution)². These proceedings are analogous to the debate on second reading of the bill in the House³.

On the conclusion of proceedings on report of a government bill so referred to the Grand Committee, or on the order for third reading of such a bill being read in the House, a motion may be made by a Minister of the Crown that the bill should be referred once again to the Grand Committee. Such a motion is put forthwith. In the case of a private member's bill, the member in charge may make the motion to refer the bill once again to the Grand Committee; and the unanimous consent of the House is required for it to be agreed to⁴. If such a motion is carried, the Grand Committee considers the bill on the motion, 'That the committee has further considered the bill in relation to its principle'. After a maximum of one and a half hours⁵, not necessarily on the same day, the question is put from the chair. The chairman then reports the committee's resolution to the House or that the committee has come to no resolution. Bills so reported are ordered by the House to be read the third time on a future day; and on the appointed day the question for third reading is put forthwith⁶.

1 As to the reference of such bills to the Grand Committee by the House of Commons see PARA 754 ante.

2 HC Standing Orders (Public Business) (1997) no 113(1). A Minister of the Crown may, immediately before the motion relating to the bill's consideration is moved in committee, make a motion to extend the time-limit for the consideration of the bill: and the question thereon is put forthwith: no 113(2).

3 See PARA 743 et seq ante.

4 See HC Standing Orders (Public Business) (1997) no 113(5).

5 The time-limit may be extended in the same manner as on the committee's first consideration of the bill in relation to its principle: *ibid* no 113(6).

6 *Ibid* no 113(7).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/800. Northern Ireland Grand Committee; legislative proposals and matters.

800. Northern Ireland Grand Committee; legislative proposals and matters.

The Northern Ireland Grand Committee may, in pursuance of an order made by the House of Commons, consider a legislative proposal or other matter relating exclusively to Northern Ireland, and may report only that it has considered the proposal or matter¹.

1 HC Standing Orders (Public Business) (1997) no 114(1), (2). The question for referring a legislative proposal or matter to the Grand Committee on the motion of a Minister of the Crown is put forthwith in the House. For these purposes, 'a legislative proposal' means a proposal for a draft Order in Council relating exclusively to Northern Ireland: see no 114(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/801. Northern Ireland Grand Committee; delegated legislation.

801. Northern Ireland Grand Committee; delegated legislation.

A motion may be made in the House of Commons by a Minister of the Crown that certain instruments (or draft instruments) be referred to the Northern Ireland Grand Committee. The instruments in question are those (including drafts but excluding draft deregulation orders) upon which proceedings may be taken under statute and in relation to which a Minister of the Crown has given notice of a motion for approval; those, whether or not statutory instruments, in respect of which a motion similar in intent to a 'prayer' though different in form has been tabled; and statutory instruments in relation to which a motion to take note has been tabled. The question on the motion to refer the instrument to the Grand Committee is put forthwith¹.

The committee has before it a motion that it has considered the instrument; and debate may continue for two and a half hours, at the end of which the chairman reports appropriately to the House². The substantive motion on the instrument may then be put in the House for decision without amendment or debate³.

1 HC Standing Orders (Public Business) (1997) no 115(1).

2 A Minister of the Crown may, immediately before the motion for consideration of the instrument is made, make in the committee a motion that the time for debate be extended to three hours. The question on such a motion is put forthwith: *ibid* no 115(2) proviso.

3 See *ibid* no 115(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/802. Northern Ireland Grand Committee; adjournment.

802. Northern Ireland Grand Committee; adjournment.

On days specified in the order of the House of Commons, a motion for the adjournment may be made by a Minister of the Crown, after the interruption of proceedings or on the completion of the business appointed for that day. Not later than half an hour after the motion has been made, the chairman adjourns the committee without putting any question. For this business, the quorum of the committee is three¹.

1 HC Standing Orders (Public Business) (1997) no 116(5). Cf no 109(2); and PARA 796 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/803. Special standing committees.

803. Special standing committees.

During a period of 28 days from the committal of a bill, which may be extended by the House of Commons on the motion of a Minister of the Crown, a special standing committee may send for persons, papers and records and hold not more than four morning sittings of up to three hours each¹. At three of these sittings, oral evidence may be given, and that evidence may be published together with any written evidence submitted to the committee². In the case of bills certified as relating exclusively to Scotland and committed to a special standing committee,

the three sittings to hear oral evidence may be held in Scotland and need not be in the morning³. Any member of the House who is not a member of the committee may be appointed chairman of a special standing committee⁴.

1 For criticism of the 28-day provision and suggestions for change see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) paras 43-44.

2 HC Standing Orders (Public Business) (1997) no 91(1).

3 Ibid no 91(1) proviso.

4 See PARA 780 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/804. Scottish standing committees.

804. Scottish standing committees.

Not more than two standing committees may be appointed for the consideration of bills certified by the Speaker as relating exclusively to Scotland and committed to a standing committee or bills committed to a Scottish standing committee¹. Government bills have precedence in one of these committees².

1 HC Standing Orders (Public Business) (1997) no 101(1). As to the reference to the Scottish Grand Committee of bills certified by the Speaker as relating exclusively to Scotland, their consideration in that committee and their second reading see PARAS 752, 785 et seq ante.

2 Ibid no 101(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/805. Standing committees to consider bills on report.

805. Standing committees to consider bills on report.

A standing committee to consider certain bills on report¹ consists of not fewer than 20 nor more than 80 members nominated by the Committee of Selection. In nominating the members of such a committee the Committee of Selection must have regard to their qualifications and to the composition of the House of Commons². The question on a motion made by a Minister of the Crown to refer a bill to such a standing committee is put forthwith at the commencement of public business. The committee reports to the House that it has considered the bill and has, or has not, made amendments. The House thereupon orders the bill to be read the third time on a later day. This procedure has been used in respect of only one bill since its origin in 1967³.

1 Only bills considered by a second reading committee or referred in relation to their principle to the Scottish Grand Committee may be referred to a standing committee for consideration on report: see HC Standing Orders (Public Business) (1997) no 92(1).

2 Ibid no 92(2). For the consideration of a bill relating exclusively to Wales, the committee consists of all members sitting for constituencies in Wales: no 92(2) proviso.

3 See 223 Commons Journals 225. See also the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) paras 50-51.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/806. Standing Committees on Delegated Legislation.

806. Standing Committees on Delegated Legislation.

There may be one or more standing committees to which instruments (including drafts) may be referred¹. Any member of the House of Commons may take part in the deliberations of the committee, but only members of the committee may vote, make any motion, move any amendment, or be counted in the quorum².

Where a minister has given notice of a motion to approve an instrument or a draft, which is subject to proceedings in the House in pursuance of its parent statute (other than a draft deregulation order) the instrument stands referred to a Standing Committee on Delegated Legislation, unless either notice is given of a motion that it should not stand so referred or it is referred to the Scottish Grand Committee or the Northern Ireland Grand Committee³.

When any member has tabled a motion praying that a statutory instrument be annulled, a motion similar in intent though different in form to a 'prayer' in relation to an instrument (whether a statutory instrument or not) which is subject to proceedings in Parliament under a statute, or a motion to take note of a statutory instrument, a Minister of the Crown may make a motion to refer the instrument to a Standing Committee on Delegated Legislation. The motion is put forthwith in the House. If not fewer than 20 members rise to signify their objection, the Speaker declares that the noes have it⁴.

The committee considers the instrument referred to it on a motion, 'That the committee has considered the [draft] instrument'. After the committee has sat for one and a half hours (or, in the case of instruments relating exclusively to Northern Ireland, two and a half hours) the chairman puts the question. The instrument or draft is then reported to the House without any further question being put⁵.

1 See HC Standing Orders (Public Business) (1997) no 118(1). The same procedure is applied to Measures (see PARA 731 ante), and to instruments made under Measures.

2 See ibid no 118(2).

3 See ibid no 118(3).

4 Ibid no 118(4).

5 Ibid no 118(5). The substantive motion for approval of the instrument, or in another appropriate form depending on the original notice, if subsequently made in the House, is decided without debate: see no 118(6).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/807. European Standing Committees.

807. European Standing Committees.

European Community documents recommended for further consideration by the Select Committee on European Legislation¹ stand referred for consideration on motion (unless the House of Commons otherwise orders) to one of two European Standing Committees. The select committee specifies to which standing committee each document is to be referred. The distinction between the two committees depends on the principal subject matter of the document in question. Matters within the responsibility of the Ministry of Agriculture, the Departments of Transport, Environment and the Regions and the Forestry Commission, and analogous responsibilities of the Scottish, Welsh and Northern Ireland Offices, are referred to European Standing Committee A. Those for which other departments are principally responsible go to European Standing Committee B.

European Community documents are defined as proposals made under the Community treaties for legislation by the Council of Ministers; documents published for submission to the European Council or the Council of Ministers; documents published by one Community institution for submission to another which do not relate exclusively to any proposal for legislation; and any other document relating to European Community matters deposited in the House by a minister.

Each of the two European Standing Committees consists of 13 members of whom a quorum is three excluding the chairman. In addition any member of the House is able to take part in the committees' proceedings, without the ability to make a motion, vote or be counted in the quorum. Ministers of the Crown who are members of the House but not of the committee may also participate: they may make motions, but not vote or be counted in the quorum.

The government settles the precedence of motions in each of the committees. Proceedings normally begin with a statement made by a minister in respect of the document before the committee, and questions may follow. No question is taken later than an hour after the beginning of the statement. At that point, the motion of which notice will have been given is made, and amendments may be moved to it, if selected for debate by the chair. After the committee has sat for a total of two and a half hours, the questions necessary to dispose of the business before it are put from the chair and thereafter the chairman will make the appropriate report to the House. If a motion is made in the House in respect of a European Community document which is the subject of a motion reported by a European Standing Committee, the questions necessary to dispose of the motion (including any amendment thereto which may have been selected) are put forthwith².

1 See PARLIAMENT vol 78 (2010) PARA 989. Questions on motions made by ministers that particular documents should not stand referred to European Standing Committees are put at the commencement of public business: HC Standing Orders (Public Business) (1997) no 119(2).

2 See *ibid* no 119(8).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/B. PROCEDURE IN THE HOUSE OF COMMONS/(C) Standing Committees/808. Standing Committee on Regional Affairs.

808. Standing Committee on Regional Affairs.

The Standing Committee on Regional Affairs consists of all members sitting for constituencies in England together with not more than five other members nominated by the Committee of Selection¹. The quorum is six². The committee considers such matters relating to regional

affairs in England as may be referred to it³ and, when such consideration has lasted for not more than two and a half hours, may report only that it has considered the matters referred to it⁴. The committee last met on 26 July 1978⁵.

1 HC Standing Orders (Public Business) (1997) no 117(2). The standing order permitting the attendance of law officers not nominated to the committee (ie no 87: see PARA 778 ante) does not apply to this standing committee: no 117(2).

2 Ibid no 117(5).

3 Ie under ibid no 117(3).

4 Ibid no 117(4).

5 Note, however, that from July 1997 there is a select committee related to the government department responsible for the environment, transport and regional affairs: see PARLIAMENT vol 78 (2010) PARA 987.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/C. PROCEDURE IN A SELECT COMMITTEE OR A JOINT COMMITTEE/809. Committing a bill to a select or joint committee.

C. PROCEDURE IN A SELECT COMMITTEE OR A JOINT COMMITTEE

809. Committing a bill to a select or joint committee.

In either House of Parliament a public bill, after it has been read a second time, may be committed in whole or in part to a select committee of both Houses, if a motion to that effect is agreed to¹. This is done when the hearing of evidence on the provisions of the bill is considered necessary². The committal of a public bill to a joint committee is preceded by the adoption of a resolution affirming the expediency of that course, and this resolution is communicated to and concurred in by the other House.

Tax simplification bills in the House of Commons stand committed to a joint committee following their second reading³.

1 See PARA 756 ante. Consolidation bills and certain other bills are committed without motion to the Joint Committee on Consolidation etc Bills: see PARAS 843-844 post.

2 As to special standing committees in the Commons which may take evidence for a limited number of sittings see PARA 803 ante.

3 HC Standing Orders (Public Business) (1997) no 60(6).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/C. PROCEDURE IN A SELECT COMMITTEE OR A JOINT COMMITTEE/810. Nomination of select and joint committees.

810. Nomination of select and joint committees.

A select committee or a joint committee on a bill is nominated by each House of Parliament in the same way as a select committee or a joint committee is nominated to inquire into a public

matter, and the rules which regulate its proceedings are the same¹, but the bill forms the committee's order of reference and defines the scope of its inquiry.

1 As to select committees see PARLIAMENT vol 78 (2010) PARAS 868-878, 979 et seq; and as to joint committees see PARLIAMENT vol 78 (2010) PARAS 879-881.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/C. PROCEDURE IN A SELECT COMMITTEE OR A JOINT COMMITTEE/811. Procedure in committee.

811. Procedure in committee.

A select committee usually hears evidence on the bill committed to it before it considers the bill clause by clause in the same manner as any other committee and in doing so may have the assistance of specialist advisers. In considering clauses in a bill which involve charges on public funds, a select committee of the House of Commons is governed by the same limitations as a standing committee¹. In a joint committee on a public bill, the procedure of the House of Lords is followed as in other joint committees².

Having considered the bill, a select or joint committee reports it with or without amendment to the House, or to the House in which it originated, as the case may be. When a bill originating in the House of Lords is reported to that House from a joint committee, with or without amendment, a report to that effect is made to the House of Commons 'in respect of' the bill pending in the Lords. It is also open to a select or joint committee, if it wishes to express its views upon matters arising out of the bill, to present a special report, which is drawn up and agreed to by the committee in the same way as the report by a select or joint committee on a public matter³.

1 See PARAS 781-783 ante.

2 As to joint committees see PARLIAMENT vol 78 (2010) PARAS 879-881.

3 See PARLIAMENT vol 78 (2010) PARAS 874, 982-985.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iii) Committee Stage/C. PROCEDURE IN A SELECT COMMITTEE OR A JOINT COMMITTEE/812. Procedure on report of a bill from a select or joint committee.

812. Procedure on report of a bill from a select or joint committee.

When a public bill has been reported from a select committee or a joint committee, it is usually recommitted to a committee of the whole House or, in the House of Commons, to a standing committee. The bill, as amended, is then considered, and further amendments may be made¹. After such further consideration, the bill proceeds through the ordinary stages of a public bill².

If the committee considers that the bill should not proceed, it reports the bill accordingly, without amendment. The bill is not then recommitted to a committee of the whole House. Such reports are usually acquiesced in by the House, but the bill may proceed and be recommitted if a motion to that effect is agreed to.

- 1 As to recommitment see PARAS 813-814 post.
- 2 See PARA 815 et seq post.

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iv) Recommitting a Bill/813. In general.

(iv) Recommitting a Bill

813. In general.

In both Houses of Parliament, it is permissible, on motion made, to recommit a public bill. In either House a public bill may be recommitted to a committee of the whole House¹. In the House of Lords, it may also be recommitted to a Grand Committee, and in the House of Commons to a standing committee. Such a course is adopted when it is considered that the provisions of a bill require further amendment or investigation². In the Lords, bills which have been committed to select or joint committees, but not to public bill committees or special public bill committees, are automatically recommitted to a committee of the whole House, unless, in the case of a bill committed to a select committee, that committee has reported that the bill should not proceed³. In the Commons, a tax simplification bill reported by the joint committee on such bills is automatically recommitted to a committee of the whole House⁴.

- 1 The terms 'commitment' and 'recommitment' are used in relation to the House of Lords, and the terms 'committal' and 'recommittal' in relation to the House of Commons: see eg HL Standing Orders (Public Business) (1994) no 45; HC Standing Orders (Public Business) (1997) no 74. As to committees of the whole House see PARA 760 et seq, 770 et seq ante.
- 2 As to the recommitment/recommittal of hybrid bills see PARA 842 post.
- 3 In the House of Lords, the order of recommitment may be discharged after notice.
- 4 As to tax simplification bills see PARA 749 ante.

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(iv) Recommitting a Bill/814. Procedure for recommitting a bill.

814. Procedure for recommitting a bill.

A motion to recommit a bill may be made in both Houses of Parliament at any time between committee stage and third reading. In the House of Commons, debate on a motion to recommit a bill as a whole is limited to a brief explanatory statement from the member making the motion and from a member opposing it¹. In both Houses committee procedure, whatever the committee, is the same on recommitment as on an original commitment². If further amendments are made at this stage, they must be reported to the House, and the bill is considered on report before it can be read a third time.

- 1 HC Standing Orders (Public Business) (1997) no 74.
- 2 See PARA 755 et seq ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(v) Report Stage/815. Consideration of bill on report.

(v) Report Stage

815. Consideration of bill on report.

In both Houses of Parliament, when a public bill has been amended in committee of the whole House, it must return to the House for consideration before being read the third time. In the Lords, a bill committed to a committee of the whole House may be considered on report by the House even if it has not been amended in committee¹; and a bill committed to a Grand Committee, a public bill committee or a special public bill committee which is not recommitted to a committee of the whole House, is considered on report in the House before third reading, whether or not it has been amended in committee. In the Commons, any bill committed to a standing committee proceeds next to consideration on report in the House, whether or not it was amended in the committee².

On report stage in the Lords, the normal rule applies, that no lord may speak more than once, except the mover of an amendment in reply, or, with the leave of the House, (1) a lord who wishes to explain himself in some material point of his speech (no new matter being introduced); (2) a Minister of the Crown³; or (3) in the case of a private member's bill, the lord in charge of the bill⁴. In the Commons, the rule against speaking twice is relaxed at report stage to permit the member in charge of the bill to speak more than once, as well as the member who moves a new clause or amendment in respect of that new clause or amendment⁵.

1 See PARA 763 ante.

2 See HC Standing Orders (Public Business) (1997) no 73. As to the consideration of certain bills on report by a standing committee see PARA 805 ante.

3 See HL Standing Orders (Public Business) (1994) no 28(1); and PARLIAMENT vol 78 (2010) PARA 945.

4 See the *Fourth Report of the Select Committee on Procedure of the House* (HL Paper 91 (1994-95)), 228 Lords Journals 581-582.

5 See HC Standing Orders (Public Business) (1997) no 76.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(v) Report Stage/816. Procedure in the House of Lords.

816. Procedure in the House of Lords.

In the House of Lords, on the day previously appointed by the House for the report of amendments, the lord in charge of the bill moves 'That this report be now received'. When this motion has been agreed to, amendments to the bill may be moved. Such amendments are printed and circulated in the same way as amendments at the committee stage¹.

At the report stage, the bill is considered as a whole, and not clause by clause and Schedule by Schedule, and no question that a clause or Schedule stand part is put. Proceedings are confined to dealing with the amendments either in the order in which they relate to the bill or

in a particular sequence agreed to in advance by order of the House. The Lord Chancellor puts the question on each amendment 'That this amendment be agreed to'.

1 As to amendments at the committee stage see PARA 759 ante. Manuscript amendments are permissible on report, the text being read out both by the mover and by the Lord Chancellor (or other lord on the Woolsack) when putting the question. Such amendments are, however, regarded as even more undesirable on report than at the committee stage, as to which see PARA 759 note 1 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(v) Report Stage/817. Procedure in the House of Commons.

817. Procedure in the House of Commons.

In the House of Commons, as soon as the order of the day for the consideration of a bill has been read, the House proceeds to consider it without question put, unless the member who is in charge of the bill proposes to postpone its consideration, or a motion is made to recommit it in whole or in part¹. There are certain restrictions with regard to the proposing of new clauses at report stage in the Commons, in addition to the general rules with regard to amendments². No amendment can be proposed on report which could not have been proposed in committee without the House having given an instruction to the committee, unless authorised by a resolution of the House³. An amendment which imposes or increases a tax or a charge upon the public revenue or upon public funds may be moved only if it is within the terms of a money resolution recommended from the Crown and agreed to by the House⁴.

While much of the procedure on report is similar to that in committee, the order in which a bill is considered at report stage differs from that in committee. New clauses are considered first, followed by amendments to the clauses of the bill, new Schedules and amendments to the Schedules standing in the bill. Amendments are moved to the bill and not to a particular clause or Schedule. No question is put that any clause or Schedule should stand part of the bill; members who wish to strike out a clause or Schedule may bring forward an amendment to leave out the appropriate lines of the bill itself⁵.

1 See HC Standing Orders (Public Business) (1997) nos 72, 73, 52.

2 See PARAS 772-773 ante.

3 HC Standing Orders (Public Business) (1997) no 75.

4 See PARLIAMENT vol 78 (2010) PARAS 1044, 1054.

5 It has been recommended that for a certain number of appropriate bills the standing committee which had considered the bill should be reconvened to consider non-controversial government amendments, but that the reported bill should continue to be considered on the floor of the House: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) para 99.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(v) Report Stage/818. Conclusion of the report stage.

818. Conclusion of the report stage.

As soon as the report stage of a bill is concluded in the House of Lords, a day is fixed for the bill to be read a third time, and, if the bill was amended on report, a further order is made for it to be reprinted.

In the House of Commons, when all the amendments on consideration have been disposed of the member in charge either moves the third reading or names a future day for the third reading¹.

1 As to third reading see PARA 819 et seq post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vi) Third Reading/819. The Queen's consent.

(vi) Third Reading

819. The Queen's consent.

The consent of the Crown to a bill which affects the prerogative, hereditary revenues, personal property or interests of the Crown, the Duchy of Lancaster, the Duchy of Cornwall or the Principality and Stewarty of Scotland¹ must be notified to both Houses before such a bill is passed. Consent is notified by a Privy Counsellor who, in the House of Lords, must be a minister.

There is no fixed practice as to the stage at which the consent should be notified. Where the whole subject matter of a bill not mentioned in the Queen's speech would fundamentally affect the prerogative, an address is presented by the Lords to Her Majesty prior to the introduction of the bill, praying that Her Majesty may consent that her prerogative and interests may not stand in the way of the consideration by Parliament of a bill on the particular subject². Where the main principles of the bill affect the prerogative, a notification that Her Majesty places her prerogative or the interests of the Crown, so far as affected by the bill, at the disposal of Parliament is announced on the motion for the second reading. Where the revenues or personal property of the Crown are only incidentally affected, the consent is notified on the motion for the third reading³.

When consent to a bill which requires it has been withheld, the bill has been withdrawn⁴. Where such consent has been inadvertently omitted and the bill has been read a third time and passed, the proceedings have been declared null and void⁵.

1 When the Prince of Wales is of age his consent as Duke of Cornwall is given separately.

2 See PARA 736 note 1 ante.

3 See also Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 24.

4 See 76 Lords Journals 478, 504; 121 Commons Journals 423; 191 Official Report (3rd series), 29 April 1868, col 1564.

5 See 107 Commons Journals 157; 166 Commons Journals 388; 204 Commons Journals 323; see also the Speaker's ruling, 203 HC Official Report (5th series), 1 March 1927, col 218.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vi) Third Reading/820. Third reading and passing in the House of Lords.

820. Third reading and passing in the House of Lords.

In the House of Lords, the motion for third reading is taken formally and not debated. When the motion has been agreed to, amendments may be moved, but only if they have previously been printed and circulated in the form in which it is proposed to move them¹. The main purposes of amendments on third reading are to clarify any remaining uncertainties, to improve the drafting, and to enable the government to fulfil undertakings given at earlier stages of the bill. They should not be used to reopen an issue that has been fully debated and decided upon at a previous stage.

As soon as ordinary amendments have been disposed of, any formal amendment which may be necessary to avoid infringing the privileges of the House of Commons with regard to the control of public money² is moved and the question is put 'That the privilege amendment be agreed to'. When this question has been resolved, the lord in charge of the bill moves 'That this bill do now pass'. Any general debate takes place on this motion, which may be opposed in the same ways as the motion for second reading³.

1 See the *Fourth Report of the Select Committee on Procedure of the House* (HL Paper 91 (1994-95)), 228 Lords Journals 582.

2 See HL Standing Orders (Public Business) (1994) no 46.

2 See PARA 743 et seq ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vi) Third Reading/821. Bill sent to the House of Commons.

821. Bill sent to the House of Commons.

After third reading of a bill originating in the House of Lords, a House copy of the bill is printed and is then signed and indorsed with the words 'Soit baillé aux Communes' by the Clerk of the Parliaments¹. The bill is then taken by the Clerk of the Parliaments or by another clerk deputed for the purpose to the bar of the House of Commons with a message from the Lords stating that they have passed the bill and desire the concurrence of the other House to it.

1 As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vi) Third Reading/822. Third reading in the House of Commons.

822. Third reading in the House of Commons.

As soon as report stage of a bill has been completed in the House of Commons, the member in charge is asked by the Speaker to name a day for the third reading. It is now the regular

practice for the House to proceed immediately to third reading, though the member in charge of the bill may, if he wishes, choose to appoint a future day.

Amendments to the motion for third reading may be moved in the same manner as those on second reading; they may state the reasons which may induce the House to decline to read the bill the third time or they may seek to postpone the third reading for a definite period¹. Debate on third reading is more restricted than at second reading, being restricted to matters contained in the bill². Verbal amendments may be made on third reading, though the practice is very unusual³. Certain bills, Consolidated Fund and Appropriation Bills, bills further considered by the Scottish Grand Committee and the Northern Ireland Grand Committee in relation to their principle and consolidation bills are read the third time without debate⁴.

1 See PARA 745 ante. It is also in order at this stage for a member to propose that the bill, or some part of it, be recommitted: see PARA 813 ante. No question 'That the bill do pass' is put in the House of Commons.

2 See eg 108 HC Official Report (5th series) cols 974, 976; 945 HC Official Report (5th series) col 403.

3 HC Standing Orders (Public Business) (1997) no 77.

4 See *ibid* nos 56, 58(3), 97(10), 113(8). No changes to the procedure on third reading have been recommended by the Select Committee on Modernisation of the House of Commons: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) para 52.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vi) Third Reading/823. Bill sent to the House of Lords.

823. Bill sent to the House of Lords.

When the third reading of a bill has been agreed to by the House of Commons, a new House copy of the bill is printed, signed and indorsed with the words 'Soit baillé aux Seigneurs' by the Clerk of the House¹. The bill is then taken by the Clerk of the House or by another clerk deputed for the purpose to the bar of the House of Lords, with a message from the Commons stating that they have passed the bill and desire the concurrence of the Lords to it.

1 As to the Clerk of the House of Commons see PARLIAMENT vol 78 (2010) PARA 943.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vii) Consideration of Bills by the Second House/824. Stages of a bill in the second House.

(vii) Consideration of Bills by the Second House

824. Stages of a bill in the second House.

In order that a bill passed by one House of Parliament may secure the concurrence of the other House, it must complete its stages in the second House as it has already done in the House in which it originated, and it is similarly open to amendment¹.

1 The powers of the House of Lords to amend a bill which has been certified by the Speaker of the House of Commons as a money bill under the Parliament Act 1911 are restricted by s 1(1): see PARLIAMENT vol 78 (2010) PARA 827. The powers of the House of Lords to reject and thereby prevent other bills from receiving the royal assent are restricted by s 2 (amended by the Parliament Act 1949 s 1): see PARAS 831-832 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vii) Consideration of Bills by the Second House/825. Bills not amended by the second House.

825. Bills not amended by the second House.

If the House of Commons does not amend a bill which has been sent down to it by the House of Lords, the Bill is returned to the Lords after it has been indorsed by the Clerk of the House of Commons with the words 'A ceste Bille les Communes sont assentus' and it is then ready to receive the royal assent¹. If the House of Lords makes no amendment to a Commons bill, a message is sent to the House of Commons informing that House that the Lords have agreed to the bill without amendment, and the bill itself, unless it is a bill for granting aids and supplies to the Crown², is retained in the House of Lords and is ready to receive the royal assent.

1 As to royal assent see PARA 833 et seq post. As to the Clerk of the House of Commons see PARLIAMENT vol 78 (2010) PARA 943.

2 For the procedure on such bills see PARLIAMENT vol 78 (2010) PARA 1052.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vii) Consideration of Bills by the Second House/826. Bills amended by the second House.

826. Bills amended by the second House.

If a Lords bill is amended by the House of Commons, it is returned to the House of Lords after it has been indorsed by the Clerk of the House of Commons with the words 'A ceste Bille avecque des amendements [or avecque un amendement] les Communes sont assentus¹.' In the same way, a Commons bill, when it is amended by the Lords, is returned to the House of Commons after it has been indorsed by the Clerk of the Parliaments with the words 'A ceste Bille avecque des amendements [or avecque un amendement] les Seigneurs sont assentus²'.

1 As to the Clerk of the House of Commons see PARLIAMENT vol 78 (2010) PARA 943.

2 As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vii) Consideration of Bills by the Second House/827. Consideration by the first House of amendments to bill made by the second House.

827. Consideration by the first House of amendments to bill made by the second House.

The procedure in each House of Parliament for considering amendments made to one of its bills by the other House is practically the same. The usual practice is for the House which is considering the amendments to order them to be printed as soon as they are received and, in the House of Commons, taken charge of by a member of the House. A day is then fixed for their consideration¹. If the amendments are agreed to, a message is sent by the House in which the bill originated to inform the other House that it accepts the amendments. Thus, if the bill is a Commons bill, it is returned to the Lords with a message, after having been indorsed with the words 'A ces amendements [ceste amendement] les Communes sont assentus'.

However, if any of the amendments are such as the House in which the bill originated is not prepared to accept, the procedure may become more complicated². In the House of Lords the question for the consideration of Commons amendments is invariably put and may be debated. In the House of Commons the House proceeds to consider Lords amendments without question put, unless the member in charge desires to defer their consideration or to withdraw the bill³. In both Houses the amendments are considered in turn, and motions may be made in respect of each amendment either to agree with it, or to disagree with it, or to amend it or to propose an amendment in lieu of that disagreed to⁴. Fresh amendments may also be made in the bill itself but they must be consequential on an amendment which has been inserted in the bill by the other House or in lieu of an amendment disagreed to.

1 If the amendments made by the other House are not material in character, a motion may sometimes be made by the member in charge of the bill for their consideration forthwith. In the Commons, such a motion is moved before the commencement of business or at the conclusion of the orders of the day. Consideration of Lords amendments which are material in character may, if there is a need for urgency arising from the state of business, be undertaken between orders of the day, or may even interrupt a debate in progress on other business: see HC Standing Orders (Public Business) (1996) no 78. In the Lords, Commons amendments which are to be taken forthwith are considered at any convenient time during public business: HL Standing Orders (Public Business) (1994) no 39(4). For a discussion of the Commons procedure for considering Lords amendments see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) para 53. That committee recommended that the House should explore the possibility of referring appropriate Lords amendments to the standing committee which considered the bill, to be followed by consideration in the House, normally on a formal motion to agree with the committee's resolutions: see the *First Report of the Select Committee on Modernisation of the House of Commons* (HC Paper 190 (1997-98)) para 100.

2 For a detailed account of the stages of securing agreement between the two Houses see Erskine May's *Parliamentary Practice* (22nd Edn, 1997) Ch 22.

3 See HC Standing Orders (Public Business) (1997) no 78(2).

4 In 1906 the House of Commons rejected en bloc the whole of the amendments made by the House of Lords to the Education (England and Wales) Bill without assigning, in the case of any amendment, a specific reason for its rejection, and a resolution was carried in the House of Lords protesting against this procedure as an innovation in constitutional procedure: see 161 Commons Journals 491, 492, 494, 495; 138 Lords Journals 495.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vii) Consideration of Bills by the Second House/828. Committee to prepare reasons for disagreeing with amendments to a bill.

828. Committee to prepare reasons for disagreeing with amendments to a bill.

Whenever either House of Parliament has agreed to a motion to disagree with an amendment to one of its bills made by the other House without offering any alternative proposal, it appoints a committee to prepare a reason or reasons for such disagreement. The committee meets as soon as the consideration of the amendments to the bill has been concluded in the House, and proceeds to draw up the necessary reason or reasons, which it reports to the House, usually at the same sitting. A report from such a committee is taken as agreed to in either House without

discussion, after which the bill, together with the reason or reasons for disagreement, as well as any amendments which may have been made to, or in lieu of, the amendments made by the other House, and any consequential amendment to the bill which may have been rendered necessary by any such amendment, is then sent back to the other House. The reasons are attached to the bill, and the bill is indorsed by the Clerk of the Parliaments or, as the case may be, the Clerk of the House of Commons, 'Ceste Bille est remise aux Communes [or Seigneurs] avecque des Raisons [or une Raison]'¹.

1 As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855; and as to the Clerk of the House of Commons see PARLIAMENT vol 78 (2010) PARA 943.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vii) Consideration of Bills by the Second House/829. Consideration by the second House of amendments disagreed to by the first House.

829. Consideration by the second House of amendments disagreed to by the first House.

Several courses are open to the House of Parliament which first made amendments to a bill sent from the other House. The first course is to insist upon its amendment or amendments to which the other House has disagreed; the second is not to insist; and the third is to amend its own amendments or propose new amendments to meet the objections which have been taken to its original amendments by the other House.

If the first course is adopted and the House in which the bill originated insists on its disagreement, the bill is normally lost; but if the first House gives way and does not insist upon its disagreement, it is still open to it to amend the amendments which have been made by the other House, and to which it originally objected. In this event, it is again left to the House which made the amendments in the first instance to accept, amend or refuse the amendments to its amendments.

If the House adopts the second course, agreement is reached and the bill is submitted for royal assent without the amendments in dispute¹.

If the House adopts the third course, it returns the bill to the other House with the amended or new amendment or amendments. It then remains for that House to decide whether it will accept, amend or refuse the new proposals.

Therefore, it is possible for a bill to pass and repass between the two Houses for an indefinite number of times until an agreement has been arrived at, or until one or other of the Houses insists finally upon its disagreement to some amendment on which the other House insists, in which case the bill is normally lost².

1 As to royal assent see PARAS 833-835 post.

2 As to the passing into law of bills to which the House of Lords has not agreed see, however PARAS 831-832 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(vii) Consideration of Bills by the Second House/830. House of Lords and Commons financial privilege.

830. House of Lords and Commons financial privilege.

A bill originating in the House of Lords which may infringe the privileges of the Commons in respect of control of public money may be amended after third reading in the upper House by the insertion of a clause or subsection providing that nothing in the Act is to impose any charge on the people or on public funds, or vary the amount or incidence of or otherwise alter any such charge in any manner, or affect the assessment, levying, administration or application of any money raised by any such charge¹.

Where a bill containing the privilege amendment described above is sent by the Lords to the Commons, and but for that amendment the main object of the bill would be the imposition or alteration of a charge on the people or on public funds, the Commons will proceed with the bill, provided a Minister of the Crown has signified his intention to take charge of it². Where a bill containing the privilege amendment reaches the Commons and its financial provisions are subsidiary to its main purpose, there is no such limitation. The text of the privilege amendment is specially identified in the bill as first printed by the Commons, and is normally struck out by amendment in the course of the bill's consideration there³.

Some bills, known as bills of aids and supplies, of which examples are the annual Finance Bill and Consolidated Fund and Appropriation Bills, may not originate in the Lords. It is settled constitutional practice that the Lords do not amend such bills when sent to them by the Commons, though they retain the right to reject them without infringing Commons financial privileges⁴.

If a bill originating in the Commons is returned to that House by the Lords with amendments, and the Commons consider that an amendment is in breach of their financial privileges, the amendment in question will be disagreed to by the Commons on that ground alone. If however the Commons is of the opinion that an amendment which has been made by the Lords interfering with a charge is not a material infringement of financial privilege, the amendment may be agreed to and an entry recorded in the Commons journal making plain that the Commons has waived its financial privileges in that instance⁵. Should the Speaker be satisfied that an amendment made by the Lords imposes a charge on the public revenue such as is required to be authorised by resolution of the Commons, but no such authorisation has been given, the Lords amendment is deemed to be disagreed to without motion or debate. A similar course, which however involves the Speaker's calling the member in charge of the bill forthwith to move disagreement to the Lords amendment, is taken towards amendments imposing an unauthorised charge on the people⁶.

1 See PARA 820 ante.

2 HC Standing Orders (Public Business) (1997) no 80(b).

3 See Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22.

4 See Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 33.

5 The Commons has agreed by standing order not to insist on its privileges where in a public bill brought from the Lords or in Lords amendments to a bill originating in the Commons there are provisions for pecuniary penalties intended to secure the execution of the Act, or where fees are imposed in respect of services and the proceeds are not paid into the Consolidated Fund: see HC Standing Orders (Public Business) (1997) no 79.

6 See *ibid* no 78(3); and Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 33.

House of Lords has not agreed/831. Application of the Parliament Acts to bills other than money bills.

(viii) Passing into Law of Bills to which the House of Lords has not agreed

831. Application of the Parliament Acts to bills other than money bills.

Bills which have been passed by the House of Commons, but which have not been agreed to by the House of Lords, may, under certain conditions laid down by statute, become law.

If any public bill, other than a money bill¹, a bill for extending the maximum duration of Parliament beyond five years or a bill for confirming a provisional order², is passed by the House of Commons in two successive sessions, whether of the same Parliament or not, and, having been sent up to the House of Lords at least one month before the end of the session, is rejected by that House in each of those sessions, it must, upon its rejection for the second time by the House of Lords, unless the House of Commons directs to the contrary, be presented to Her Majesty for the royal assent³. Upon the royal assent being signified, the bill becomes an Act of Parliament as if it had been passed in the usual manner by both Houses of Parliament⁴. One year must elapse between the second reading of a bill in the first of the sessions by the House of Commons and its passing by that House in the second session⁵. A bill is deemed to be rejected by the House of Lords if it is not passed by that House either without amendment or with such amendments only as may be agreed to by both Houses⁶.

Upon any bill which is presented to Her Majesty for the royal assent under these provisions there must be indorsed a certificate, signed by the Speaker, stating that the statutory provisions⁷ have been duly complied with⁸. Any such certificate is conclusive for all purposes and may not be questioned in a court of law⁹.

1 For the meaning of 'money bill' and the procedure in relation to such bills see PARLIAMENT VOL 78 (2010) PARA 830.

2 See the Parliament Act 1911 s 5, disapplying ss 1-4 (as amended) to such bills.

3 See *ibid* s 2(1) (amended by the Parliament Act 1949 s 1(a)). As to royal assent see generally paras 833-835 post. As to when a bill is deemed to be the same as a former bill for these purposes see PARA 832 post.

4 Parliament Act 1911 s 2(1) (as amended: see note 3 *supra*). The words of enactment in such a bill omit reference to the lords spiritual and temporal and contain the additional words 'in accordance with the provision of the Parliament Acts 1911 and 1949': see the Parliament Act 1911 s 4(1) (amended by the Parliament Act 1949 s 2(2)); and STATUTES VOL 44(1) (Reissue) PARA 1273. An alteration of a bill which is necessary to give effect to this provision is not deemed to be an amendment of the bill: Parliament Act 1911 s 4(2).

5 *Ibid* s 2(1) proviso (amended by the Parliament Act 1949 s 1(b)).

6 Parliament Act 1911 s 2(3).

7 *Ie* the provisions of *ibid* s 2 (as amended): s 2(2).

8 *Ibid* s 2(2).

9 *Ibid* s 3. The Parliament Act 1911 and the Parliament Act 1949 are to be construed as one: Parliament Act 1949 s 2(2). At the date at which this volume states the law, the bill for the War Crimes Act 1991 is the only bill to have been passed under the combined procedure; the bill for the Parliament Act 1949 was, however, itself passed under the procedure set out in the Parliament Act 1911 s 2 as originally enacted.

UPDATE

831 Application of the Parliament Acts to bills other than money bills

NOTES--Nothing in the language of the 1911 Act s 2(1) prevents the 1949 Act or legislation made under it from being legally effective: *R (on the application of Jackson) v A-G* [2005] UKHL 56, [2005] 3 WLR 733 (challenge to validity of Hunting Act 2004 failed).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(viii) Passing into Law of Bills to which the House of Lords has not agreed/832. When a bill is deemed to be the same as a former bill.

832. When a bill is deemed to be the same as a former bill.

A bill is deemed to be the same bill as one sent up to the House of Lords by the House of Commons in the preceding session if, when it is sent up, it is identical with that bill, or contains only such alterations as are rendered necessary by the lapse of time since its first introduction or represent amendments made by the House of Lords in the bill of the preceding session¹. If the bill is thus amended, the Speaker must certify either that the alterations are necessary on account of the lapse of time, or that they represent such amendments as are referred to above².

Amendments which are made by the House of Lords in a bill which is sent up to it in the second session, and to which the House of Commons agrees, must be inserted in the bill before it receives the royal assent, if the Speaker certifies that they have been so made and have been agreed to by both Houses³. Provision is also made for amendments to the bill to be suggested by the House of Commons but not inserted in the bill on its passage through the House in the second session⁴. Such amendments must be moved before third reading and each amendment passed on a separate resolution. The amendments are sent to the House of Lords with the bill after it has passed the House of Commons and must be considered by the House of Lords; if agreed to, they are treated as amendments to the bill made by the House of Lords and agreed to by the House of Commons⁵.

1 Parliament Act 1911 s 2(4). As to the procedure under s 2 (as amended) see PARA 831 ante.

2 Ibid s 2(4). For an example of the Speaker's certificate see the proceedings on the Aircraft and Shipbuilding Industries Bill, 922 HC Official Report (5th series), 8 December 1976, cols 451-454; and on the War Crimes Bill, 247 Commons Journals 306, 382.

3 Parliament Act 1911 s 2(4) (amended by the Parliament Act 1949 s 1(a)). As to the conclusive effect of the Speaker's certificate see PARA 831 text to note 9 ante.

4 See the Parliament Act 1911 s 2(4) proviso (amended by the Parliament Act 1949 s 1(a)).

5 Parliament Act 1911 s 2(4) proviso. The exercise of the power to suggest amendments by the House of Commons does not affect the operation of s 2 (as amended) in the event of the bill being rejected by the House of Lords: s 2(4) proviso.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ix) Royal Assent/833. Royal assent to bills.

(ix) Royal Assent

833. Royal assent to bills.

When a bill has been passed by both Houses of Parliament, or has been passed by the House of Commons under the Parliament Acts¹, and when a Measure has been approved by both Houses, it is ready to receive the royal assent². Royal assent has not been given by the monarch in person since 1854³; it is now given either by notification or commission. In either case commissions⁴, sometimes known as letters patent, are prepared in the Crown Office by the Clerk of the Crown in Chancery and are then submitted by the Lord Chancellor to the monarch to receive her approval and signature. As soon as the commission has been signed by the monarch, it is returned to the Lord Chancellor. The wafer Great Seal is then attached to it, and it is placed on the table of the House of Lords. The authority for the bills which are to receive the royal assent is supplied to the Crown Office by the Clerk of the Parliaments, who sends to the Clerk of the Crown a list of the bills which are to appear in the commission. Bills which are to receive the royal assent are arranged in the following order: public bills, provisional order confirmation bills and private bills. Private bills which have been certified as personal bills are put last of the private bills. Measures are placed after bills.

1 As to the procedure under the Parliament Acts 1911 and 1949 see PARAS 831-832 ante.

2 Bills which are ready for the royal assent, with the exception of bills granting aids or supplies which are returned to the House of Commons, are in the custody of the Clerk of the Parliaments: see PARA 825 ante. As to the Clerk of the Parliaments see PARA 551 ante.

3 As to assent by Her Majesty in person see the Royal Assent Act 1967 s 1(2). The royal assent has not been given in person since 12 August 1854.

4 For the form of the commissions see the Crown Office (Forms and Proclamations Rules) Order 1992, SI 1992/1730, r 2(1), (2), Schedule Pt IV, Forms A-C.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(ix) Royal Assent/834. Royal assent by notification.

834. Royal assent by notification.

The procedure for royal assent by notification was introduced by the Royal Assent Act 1967¹ and is the procedure now normally used. The assent is notified to each House of Parliament sitting separately by the Speaker of that House or, in the case of his absence, by the person acting as Speaker². Notification may take place at any convenient time when the House is sitting³. The Speaker of each House uses the following words: 'I have to notify the House in accordance with the Royal Assent Act 1967 that the Queen has signified Her royal assent to the following Acts [and Measures] ...'.

1 See the Royal Assent Act 1967 s 1.

2 See *ibid* s 1(1)(b). For the form for signifying royal assent by notification see the Crown Office (Forms and Proclamations Rules) Order 1992, SI 1992/1730, r 2(1), (2), Schedule Pt IV, Form C.

3 See further Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(ix) Royal Assent/835. Royal assent by commission.

835. Royal assent by commission.

Between 1854 and 1967 royal assent was invariably signified by Lords Commissioners¹ appointed for the purpose in accordance with a procedure authorised by the Royal Assent by Commission Act 1541. While this procedure remains available for use at any time it has, since the Royal Assent Act 1967², been used only when royal assent has coincided with prorogation³.

The ceremony takes place in the House of Lords. The Lord Chancellor, accompanied by two or four other Lords Commissioners, takes his seat on a bench placed in front of the Throne, and the Gentleman Usher of the Black Rod is directed to request the attendance of the Commons. As soon as the Speaker, accompanied by the Commons, has arrived at the bar of the House, the Lord Chancellor informs the two Houses that a commission has been issued. The Reading Clerk then reads the commission, after which the Lord Chancellor declares and notifies the royal assent to the Acts which are mentioned in the commission and directs the clerks to pass them in the usual form and words.

The Clerk of the Crown and the Clerk of the Parliaments then take their stand on either side of the table. The Clerk of the Crown reads out the short title of each bill in turn and the Clerk of the Parliaments then turns towards the bar and pronounces the royal assent in Norman French. For an ordinary public or private Act or a Measure, royal assent is pronounced in the words 'La Reyne le veult'; for an Act granting aids or supplies, in the words 'La Reyne remercie ses bons sujets, accepte leur benevolence, et ainsi le veult'; and for a personal Act, in the words 'Soit fait comme il est désiré'⁴.

As soon as all the Acts and Measures mentioned in the commission have received the royal assent, the ceremony is at an end, and the Speaker, after exchanging salutations with the Lords Commissioners, returns to the House of Commons.

The Lord Chancellor reads the prorogation speech and then prorogues Parliament by virtue of the commission. After the completion of the ceremony, the Commons withdraw and the commissioners leave the House.

1 As to the Lords Commissioners see Parliament vol 78 (2010) para 1004.

2 As to the Royal Assent Act 1967 see para 834 ante.

3 For the form for signifying the royal assent by commission with prorogation see the Crown Office (Forms and Proclamations Rules) Order 1992, SI 1992/1730, r 2(1), (2), Schedule Pt IV, Form B.

4 If royal assent is refused to a bill, the intention of the Crown is signified in the words 'La Reyne s'avisera'. Royal assent has not been withheld since 1707: see 18 Lords Journals 506.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(3) Public Bills/(x) Printing and Publication/836. Printing of public Acts of Parliament.

(x) Printing and Publication

836. Printing of public Acts of Parliament.

After a public Act has received the royal assent it is printed. A proof is prepared by the Clerk of Public Bills in the House of Lords from the House copy of the Act. As soon as the proof has been examined, the Clerk of Public Bills returns it with his certificate to the printers, and at the same time requests the Controller of Her Majesty's Stationery Office to give instructions for the Act to be published forthwith. The printed copy of an Act of Parliament bears a chapter number and the date on which it received the royal assent¹.

Two vellum copies of the Act are printed. One, signed by the Clerk of the Parliaments, is preserved in his custody and lodged in the House of Lords Record Office. The other is kept in the Public Record Office. In the case of Measures a third copy is prepared and sent to the General Synod².

1 See the Acts of Parliament (Commencement) Act 1793 (applied to Measures by the Interpretation Measure 1925 s 5). Except where otherwise provided, an Act comes into force at the beginning of the day on which it receives royal assent: see the Interpretation Act 1978 ss 4, 5, 22, Sch 1, Sch 2 para 4(1)(b). See also STATUTES vol 44(1) (Reissue) PARA 1272.

2 As to General Synod Measures see PARA 731 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(x) Printing and Publication/837. Classification of statutes.

837. Classification of statutes.

The legislation of each year is divided into two main groups. The first comprises the public Acts, which are printed in a series numbered in Arabic characters; the second, private and provisional order confirmation Acts, which are printed in a series numbered in small Roman numerals. Personal Acts, that is to say, private Acts which proceed from bills certified as personal bills¹, are printed with the private Acts and numbered separately in italicised Arabic figures².

1 As to the certification of private bills as personal see PARA 907 post.

2 As to the classification of legislation see further STATUTES vol 44(1) (Reissue) PARA 1207 et seq.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(3) PUBLIC BILLS/(x) Printing and Publication/838. Method of publication of Acts of Parliament.

838. Method of publication of Acts of Parliament.

Prints of every public Act are published officially as soon as possible after each Act has received the royal assent. In addition, volumes are published annually containing the text of the public Acts and Measures which received the royal assent during the calendar year. These volumes also include (1) tables of the derivations and destinations of the year's consolidation Acts; (2) a table showing the effect of the year's legislation on the statute law; and (3) a table of textual amendments to public legislation made by statutory instruments during the year.

Annual volumes containing the text of private and personal Acts are published separately¹.

- 1 As to the printing and publication of Acts see further STATUTES vol 44(1) (Reissue) PARA 1248 et seq.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(4) PUBLIC BILLS REQUIRING SPECIAL PROCEDURE/(i) Hybrid Bills/839. Meaning of 'hybrid bill'.

(4) PUBLIC BILLS REQUIRING SPECIAL PROCEDURE

(i) Hybrid Bills

839. Meaning of 'hybrid bill'.

Bills which, although introduced into Parliament as public bills, are found to affect specific private interests in a manner different from the private interests of other persons or bodies of the same category or class are known as hybrid bills, and attract various provisions of the standing orders relating to private business, including those relating to the publication and service of notices¹. Unlike private bills, which originate in petitions to Parliament, hybrid bills are introduced by a member of either House, in the same manner as public bills². A bill relating to Crown property, or a bill introduced by the government, even if it affects private interests, must be introduced as a public bill and not as a private bill, because the Crown cannot petition itself in Parliament. Such a bill is treated as a hybrid bill.

- 1 See PARA 853 et seq post.

- 2 As to the introduction of public bills see PARAS 736, 740 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(4) PUBLIC BILLS REQUIRING SPECIAL PROCEDURE/(i) Hybrid Bills/840. Examination of a bill by Examiners of Petitions for Private Bills.

840. Examination of a bill by Examiners of Petitions for Private Bills.

When a public bill has been introduced into either House, it is scrutinised by the clerks in the Public Bill Office of that House; and, if it appears that private interests may be affected in such a way that the standing orders relating to private business apply to it, the bill is referred to the Examiners of Petitions for Private Bills¹, and the second reading of the bill may not be taken until the examiners' report has been received. The duty of the examiners is to decide whether the bill is of such a nature that the standing orders relating to notices, deposits of documents and consents² apply to it and, if so, whether those standing orders have been complied with³. If the examiners report that none of these standing orders applies, the bill proceeds as an ordinary public bill; if they report that the standing orders are applicable and have not been complied with, the report is referred to the Standing Orders Committee, and no further progress can be made with the bill until the House has agreed to a report from that committee recommending that the standing orders should be dispensed with. When the House has agreed to this report, or when the examiners have reported that the standing orders apply and have been complied with, the second reading of the bill may be moved in the same manner as any other public bill⁴.

1 See PARA 859 post.

2 See HL Standing Orders (Private Business) (1991) Pt II nos 4-68; HC Standing Orders (Private Business) (1991) nos 4-68. As to these orders see PARAS 853-858 post.

3 See HL Standing Orders (Private Business) (1991) no 83(1); HC Standing Orders (Private Business) (1991) no 224(1).

4 A bill that has started as an ordinary public bill may, on a reference to the examiners, be found to have become hybrid as a result of an amendment made to it.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(4) PUBLIC BILLS REQUIRING SPECIAL PROCEDURE/(i) Hybrid Bills/841. Procedure in the House of Lords.

841. Procedure in the House of Lords.

In the House of Lords, where a bill has been found to be hybrid, an order of the House is made providing for any petitions against the bill to be deposited by a given date. If any petitions are deposited in due time the bill is committed after second reading to a select committee. Since the bill is a public bill, and its principle will therefore have been affirmed on second reading, the preamble does not have to be proved before the select committee. Otherwise, the proceedings in the select committee are the same as in an opposed private bill committee. When the bill is reported from the select committee it is recommitted to a committee of the whole House and thereafter proceeds like any other public bill¹.

If there are no petitions deposited against the bill in due time the bill proceeds as an ordinary public bill. Similarly, if any petitions deposited are all withdrawn before the date of the first meeting of the select committee, the commitment to a select committee is discharged and the bill proceeds as an ordinary public bill.

1 As to ordinary public bill procedure in the Lords see PARA 755 et seq ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(4) PUBLIC BILLS REQUIRING SPECIAL PROCEDURE/(i) Hybrid Bills/842. Procedure in the House of Commons.

842. Procedure in the House of Commons.

In the House of Commons, after a hybrid bill has been read a second time, it is committed to a select committee, which is usually nominated in part by the House and in part by the Committee of Selection. An order is made by the House that any petitions against the bill which are deposited in the Private Bill Office within a specified period are referred to the select committee; but that if no petition is deposited, or if all such petitions are withdrawn before the meeting of the committee, the order for committal to a select committee is to be discharged and the bill committed to a committee of the whole House or, more usually, to a standing committee.

The procedure of a select committee of the House of Commons on an opposed hybrid bill in general follows that of a committee on an opposed private bill¹. However, unless the House has given an instruction or indication to the contrary, the second reading is considered to remove from the promoters the onus of proving the expediency of the bill, thus reversing the order

followed in a private bill committee. Any petitioner who has deposited his petition within the period specified in the order of the House and who has locus standi is entitled to be heard either personally or by his counsel or agents; but he may not argue on matters which cannot give him locus standi. The member in charge of the bill is entitled to be heard by his counsel or agents against the petition and in favour of the bill. If he objects to the locus standi of a petitioner, the committee decides the matter in the light of previous decisions given by the Court of Referees. The committee also decides the limits of the locus standi of each petitioner. The minutes of the evidence taken before the committee are printed by order, and at the expense, of the House for the use of the committee and of the parties.

When a hybrid bill is reported to the House of Commons by the select committee, it is normally recommitted to a committee of the whole House or a standing committee and proceeds through its remaining stages as a public bill².

1 See PARA 892 et seq post.

2 On one occasion it was ruled by the Speaker that a public bill was prima facie hybrid when the bill had been reported to the House from a standing committee. To enable the bill to proceed further as a public bill the House agreed to a motion dispensing with the application to the bill of the standing orders relating to private business: 114 HC Official Report (5th series), 26 May 1976, cols 445-446. For the effect of the decision on the presentation of petitions see the further ruling by the Speaker: 119 HC Official Report (5th series), 9 June 1976, col 1432 et seq.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(4) PUBLIC BILLS REQUIRING SPECIAL PROCEDURE/(ii) Consolidation Bills/843. Consolidation bills.

(ii) Consolidation Bills

843. Consolidation bills.

A joint committee is set up pursuant to standing orders of the two Houses of Parliament¹ to consider consolidation bills, statute law revision bills, bills prepared pursuant to the Consolidation of Enactments (Procedure) Act 1949², bills to consolidate enactments with amendments to give effect to recommendations of the Law Commissions³, bills prepared by the Law Commissions to promote the reform of the statute law by the repeal of enactments which are no longer of practical utility⁴ and analogous Orders in Council or draft orders applicable to Northern Ireland⁵. Such bills are invariably introduced into the House of Lords and are referred to the joint committee after second reading without any motion, pursuant to standing order.

1 See HL Standing Orders (Public Business) (1994) no 49; HC Standing Orders (Public Business) (1997) no 140(1).

2 See STATUTES vol 44(1) (Reissue) PARA 1247. This procedure is no longer used in practice.

3 As to the Law Commission see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 957; STATUTES vol 44(1) (Reissue) PARA 1244.

4 Bills to re-enact in the form in which they apply to Scotland the provisions of United Kingdom Acts have been referred to the joint committee, on motion: see eg 205 Lords Journals 383.

5 See Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 28.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(4) PUBLIC BILLS REQUIRING SPECIAL PROCEDURE/(ii) Consolidation Bills/844. Joint Committee on Consolidation etc Bills.

844. Joint Committee on Consolidation etc Bills.

The Joint Committee on Consolidation etc Bills consists of 12 members of each House¹. The chairman is normally one of the Lords of Appeal in Ordinary. After considering, where relevant, any memoranda presented under the Consolidation of Enactments (Procedure) Act 1949² or any report of a Law Commission³ and after taking evidence from the parliamentary draftsman responsible and any departmental or other witnesses, the committee reports the bills with or without amendment⁴. The bills are then recommitted to a committee of the whole House in the House of Lords and are thereafter proceeded with in the same manner as ordinary public bills⁵. There is an abbreviated procedure applicable to such bills in the House of Commons, in which there is no debate on second or third reading, and a motion may be made to dispense with the committal of the bill⁶.

1 HL Standing Orders (Public Business) (1994) no 49; HC Standing Orders (Public Business) (1996) no 140(1).

2 See STATUTES vol 44(1) (Reissue) PARA 1247. This procedure is no longer used in practice.

3 As to the Law Commission see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 957; STATUTES vol 44(1) (Reissue) PARA 1244.

4 For the procedure in joint committees see PARA 811 ante.

5 For the restrictions on amendments which may be moved to consolidation bills see Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 22.

6 See HC Standing Orders (Public Business) (1997) no 58; and PARA 769 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(i) General Classification of Private Legislation/845. Meaning and categories of private legislation.

(5) PRIVATE LEGISLATION

(i) General Classification of Private Legislation

845. Meaning and categories of private legislation.

Private legislation is legislation which confers powers or benefits on a particular person or body. It thus differs from public legislation, which applies to the general community, and is subject to different practice and procedure¹.

Private legislation may be classified as follows: (1) private bills² (including personal bills)³; (2) special procedure orders⁴; and (3) Scottish private legislation⁵.

1 See also PARA 728 et seq ante.

2 See PARA 847 et seq post.

3 See PARA 907 et seq post.

4 See PARA 914 et seq post.

5 See PARA 928 et seq post.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(5) Private Legislation/(i) General Classification of Private Legislation/846. Private bills; impact of the Transport and Works Act 1992.

846. Private bills; impact of the Transport and Works Act 1992.

The Transport and Works Act 1992 has had a profound impact on the number and type of private bills. Before the coming into force of the relevant parts of that Act¹ private bills could be broadly classified into (1) works bills and (2) general powers bills. The effect of the 1992 Act has been to put an end to almost all works bills. Such bills were bills to authorise the construction of works and to confer the necessary ancillary powers for that purpose, notably, in nearly all cases, powers to acquire the necessary land and rights over land. In recent years they fell into the following broad categories, namely, bills for: (a) railways; (b) tramways and the like; (c) canals and other inland waterways; (d) barrages, bridges, tunnels, pipelines and other works in tidal waters; (e) harbour works, including marinas. The effect of the Transport and Works Act 1992 is that such projects can now be authorised by ministerial orders, in the case of those in categories (a) to (d) above, by orders under Part I of the 1992 Act²; and in the case of category (e) above by orders under the Harbours Act 1964³. The existence of the power to make ministerial orders for such projects means that, except in highly exceptional circumstances⁴, they cannot now be made the subject of private bills. That is because the promoters of such projects could not now maintain the averment, which the preamble to every private bill has to contain, that the purposes of the Act cannot be effected without the authority of Parliament⁵.

1 I.e. the Transport and Works Act 1992 Pt I (ss 1-25) which came into force on 1 January 1993 (see the Transport and Works Act 1992 (Commencement No 3 and Transitional Provisions) Order 1992, SI 1992/2784); and the Transport and Works Act 1992 s 63, Sch 3 which came into force on 15 July 1992 (see the Transport and Works Act 1992 (Commencement No 1) Order 1992, SI 1992/1347). Those provisions gave effect to certain recommendations of the *Report of the Joint Committee on Private Bill Procedure* (July 1988) (HL Paper 97 (1987-88); HC Paper 625 (1987-88)). See also COMPULSORY ACQUISITION OF LAND vol 18 (2009) Paras 507, 508.

2 See the Transport and Works Act 1992 ss 1, 3, 4(1); the Transport and Works (Descriptions of Works Interfering with Navigation) Order 1992, SI 1992/3230; and WATER AND WATERWAYS vol 101 (2009) PARA 801.

3 The amendments to the Harbours Act 1964 made by the Transport and Works Act 1992 s 63, Sch 3 considerably extended the power to make orders under the 1964 Act, most notably by enabling them to cover marinas (i.e. harbours confined, or largely confined, to pleasure vessels): see the Harbours Act 1964 ss 14(2)(b), 16(5) (amended by the Transport and Works Act 1992 Sch 3 paras 1(2), 2(2) respectively); and PORTS AND HARBOURS.

4 As in the case of the Tamar Bridge bill deposited in November 1996. The bill provided, inter alia, for works for widening the bridge but the works did not involve any interference with navigation and did not, therefore, fall within the Transport and Works Act 1992 s 3(1)(b)(i), even though bridges are prescribed by the Transport and Works (Descriptions of Works Interfering with Navigation) Order 1992, SI 1992/3230.

5 A statutory exception to this principle formerly operated in relation to harbours since the effect of the Harbours Act 1964 s 62 (repealed) was to give a promoter who could seek a harbour order under the 1964 Act for a proposed project the option of proceeding by private bill.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(i) General Classification of Private Legislation/847. Procedure with regard to private bills.

847. Procedure with regard to private bills.

The procedure governing private bills is laid down in the private business standing orders which are almost identical in both Houses, although each House has a few orders peculiar to itself¹. Many of the private business standing orders in each House provide for the various notices and deposits that are required to be published, given or made in relation to private bills². The great majority of these relate only to works bills and are now, therefore, rarely applicable³.

1 Standing orders are reprinted from time to time, as currently amended by orders of each House. The current editions of the private business standing orders are HL Standing Orders (Private Business) (1991) and HC Standing Orders (Private Business) (1991). References to the private business standing orders in this title are to those editions as amended at the date at which this volume states the law.

2 See HL Standing Orders (Private Business) (1991) nos 4-61; HC Standing Orders (Private Business) (1991) nos 4-61.

3 See PARA 846 ante. Such orders still apply, however, to hybrid bills involving works. As to hybrid bills see PARA 839 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ii) Parliamentary Agents/848. Work of parliamentary agents.

(ii) Parliamentary Agents

848. Work of parliamentary agents.

The work connected with the promotion of private bills is performed by parliamentary agents¹, who in each House of Parliament are held personally responsible for the observance of the rules and orders of the House which have been drawn up for their guidance and for the regulation and management of private business². In either House, a parliamentary agent who wilfully acts in violation of the rules and practice of Parliament, or of any rules prescribed for his guidance, or is guilty of professional misconduct, may be suspended either absolutely or temporarily from acting as a parliamentary agent. No person who has been suspended or prohibited from practising as a parliamentary agent, or who has been struck off the roll of solicitors or disbarred by any of the Inns of Court, may be registered as a parliamentary agent without the express authority of the Chairman of Committees in the House of Lords or of the Speaker in the House of Commons.

1 The services of a parliamentary agent are excluded from the application of the Fair Trading Act 1973 ss 14-16 (as amended) (see s 15(1), Sch 4 para 11); and of the Restrictive Trade Practices Act 1976 ss 11-13 (see s 13(3), Sch 1 para 11; and COMPETITION vol 18 (2009) PARA 3).

2 As to parliamentary agents see further Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 37; and for the full text of the rules relating to them see HC Paper 397 (1981-82)).

UPDATE

848 Work of parliamentary agents

NOTE 1--Fair Trading Act 1973 ss 14-16, Sch 4 repealed: Enterprise Act 2002 s 10(1)(b), Sch 26.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ii) Parliamentary Agents/849. Who may act as parliamentary agent.

849. Who may act as parliamentary agent.

Parliamentary agents in the fullest sense, that is to say those persons who are professionally engaged in the practice of promoting and opposing bills on behalf of their clients, are registered on a permanent register of parliamentary agents known as Roll A. Application for inclusion on Roll A has to be made to the Speaker of the House of Commons and the Chairman of Committees in the House of Lords, who have to be satisfied that the applicant has a practical knowledge of the private business standing orders and of procedure relating to private business. There is also a Roll B. This is a sessional register which is for persons appointed as agents by persons or bodies who are opposing a bill and wish to appoint an agent for that purpose¹ but do not wish to employ an agent on Roll A. No qualification is required for entry on Roll B. The person concerned attends the Private Bill Office in the House where the bill is opposed and signs the register but, unless he is a solicitor or has previously been registered as a parliamentary agent, he is required to produce a certificate of respectability from a member of Parliament, justice of the peace, barrister or solicitor. Registration on Roll B ceases to be valid at the end of the session in which it takes place.

1 A petitioner may conduct his case in person: see HC Standing Orders (Private Business) (1991) No 74A.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/A. PETITION FOR A BILL/850. Presentation of a petition for a bill.

(iii) Preliminary Proceedings on Private Bills

A. PETITION FOR A BILL

850. Presentation of a petition for a bill.

Every private bill is founded on a petition. Except in the case of a personal bill¹ the petition, signed by the parties, or some of them, who are the promoters of the bill, must (in whichever House of Parliament the bill is ultimately presented) be deposited in the Private Bill Office of the House of Commons on or before 27 November, with a printed copy of the proposed bill annexed to it². Another printed copy of the bill must be deposited, on or before the same date, in the Office of the Clerk of the Parliaments in the House of Lords³. The requirement that a petition must be deposited before a private bill can be presented is, from a procedural point of view, the critical distinction between a private bill and a public bill⁴.

1 See PARA 907 post.

- 2 See HC Standing Orders (Private Business) (1991) nos 2, 2A.
- 3 See HL Standing Orders (Private Business) (1991) nos 2, 38(1).
- 4 As to the classification of legislation see PARA 728 et seq ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/A. PETITION FOR A BILL/851. Late bill.

851. Late bill.

If parties who have not deposited a petition for a bill before 27 November¹ desire to present a private bill during the current session of Parliament, they must apply to the Chairman of Committees in the House of Lords and the Chairman of Ways and Means in the House of Commons for leave to present a late bill. If the chairmen are satisfied that the proposals to be submitted to Parliament are sufficiently important or urgent, and that the promoters could not have deposited the petition for the bill at the proper time, they approve the application and indicate in which House the bill will originate. The bill is formally indorsed by the chairman of the House of origin and deposited in the Office of the Clerk of the Parliaments or the Private Bill Office of the House of Commons, as the case may be².

- 1 As to the presentation of the petition see PARA 850 ante.
- 2 As to late bills see HL Standing Orders (Private Business) (1991) no 97; HC Standing Orders (Private Business) (1991) no 2A.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/A. PETITION FOR A BILL/852. Petitions for additional provision.

852. Petitions for additional provision.

A procedure similar to that applying to late bills¹ must be followed by promoters who, after the presentation of their bill to the first House of Parliament, desire to make an additional provision in the bill which requires the service of fresh notices. A petition for additional provision requires the formal approval of the Chairman of Committees in the House of Lords² and the Chairman of Ways and Means in the House of Commons³. If their approval is signified, the petition is referred to the Examiners of Petitions for Private Bills⁴. Petitions for additional provision may not be received in the second House⁵.

- 1 See PARA 851 ante.
- 2 HL Standing Orders (Private Business) (1991) no 73(1).
- 3 HC Standing Orders (Private Business) (1991) no 166A(2).
- 4 See HL Standing Orders (Private Business) (1991) no 73(3); HC Standing Orders (Private Business) (1991) no 73(1).
- 5 See HL Standing Orders (Private Business) (1991) no 73(2); HC Standing Orders (Private Business) (1991) no 166A(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/B. NOTICES/853. Notices in newspapers and Gazettes.

B. NOTICES

853. Notices in newspapers and Gazettes.

Whenever it is proposed to present a private bill to Parliament, the promoters must publish prescribed notices in the newspapers and in the London Gazette and, if Scotland or Northern Ireland is affected, in the Edinburgh Gazette or Belfast Gazette, on or before 11 December¹. The notices must give a concise summary of the purposes of the bill², and state that on and after 4 December a copy of the bill may be inspected, and copies obtained for a reasonable price, at specified places³. It is the duty of the promoters to ensure that copies of the bill (or the relevant parts of it) are available at the appropriate places⁴.

Where a bill is promoted by or alters the functions of a local authority the notices must be published on two separate occasions in two consecutive weeks in a newspaper circulating in the authority's area⁵. Where a bill is not promoted by a local authority the notices must be similarly published in a newspaper circulating in the county or London borough or, in Scotland, the islands area or district in which the promoters' principal office is situated⁶.

1 See HL Standing Orders (Private Business) (1991) nos 4, 10, 11; HC Standing Orders (Private Business) (1991) nos 4, 10, 11; and the text to notes 5-6 *infra*.

2 See HL Standing Orders (Private Business) (1991) no 4(1); HC Standing Orders (Private Business) (1991) no 4(1). As to the further particulars required to be given in certain cases see HL Standing Orders (Private Business) (1991) nos 5-9; HC Standing Orders (Private Business) (1991) nos 5-9.

3 See HL Standing Orders (Private Business) (1991) no 4(2); HC Standing Orders (Private Business) (1991) no 4(2). For the specified places see HL Standing Orders (Private Business) (1991) no 4A; HC Standing Orders (Private Business) (1991) no 4A.

4 See HL Standing Orders (Private Business) (1991) no 4A(1); HC Standing Orders (Private Business) (1991) no 4A(1).

5 HL Standing Orders (Private Business) (1991) no 10(1), (2)(a); HC Standing Orders (Private Business) (1991) no 10(1), (2)(a).

6 HL Standing Orders (Private Business) (1991) no 10(1), (2)(b); HC Standing Orders (Private Business) (1991) no 10(1), (2)(b).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/B. NOTICES/854. Further notices.

854. Further notices.

In practice the prescribed newspaper and Gazette notices¹ are now the only notices of the intention to present a private bill which are normally required. In the case of works bills the promoters are in addition required to serve various notices on particular persons affected by the bill² and also to deposit plans and other documents with specified authorities, government

departments and agencies³ but the procedure for presenting a works bill is now very seldom used in practice⁴.

1 See PARA 853 ante.

2 See HL Standing Orders (Private Business) (1991) nos 12A-24; HC Standing Orders (Private Business) (1991) nos 12A-24.

3 See HL Standing Orders (Private Business) (1991) nos 26-37, 48-59; HC Standing Orders (Private Business) (1991) nos 26-37, 48-59.

4 See PARA 846 ante.

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/C. DEPOSIT OF A BILL/855. Deposit of printed copies of a bill.

C. DEPOSIT OF A BILL

855. Deposit of printed copies of a bill.

Printed copies of a private bill proposed to be presented to Parliament must be delivered, on or before 27 November, to the office of the Clerk of the Parliaments¹ and to the Vote Office in the House of Commons for the use of members of Parliament and to the Private Bill Office for the use of any parliamentary agent².

1 HL Standing Orders (Private Business) (1991) no 38(1). As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855.

2 HC Standing Orders (Private Business) (1991) no 38(1). As to the deposit in the House of Commons of the petition for the bill, with a copy of the bill annexed to it, and of a copy of the bill in the House of Lords see PARA 850 ante. As to parliamentary agents see PARAS 848-849 ante.

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/C. DEPOSIT OF A BILL/856. Deposit with government departments and other public authorities.

856. Deposit with government departments and other public authorities.

Printed copies of every private bill must be deposited, on or before 4 December, at all the main government departments¹ and in some cases a copy must also be lodged at certain other departments or offices².

1 HL Standing Orders (Private Business) (1991) no 39(1); HC Standing Orders (Private Business) (1991) no 39(1).

2 See HL Standing Orders (Private Business) (1991) nos 39(2)-(10), 41-44; HC Standing Orders (Private Business) (1991) nos 39(2)-(10), 41-44. As to the deposit of estimates in Parliament and elsewhere see HL Standing Orders (Private Business) (1991) no 45; HC Standing Orders (Private Business) (1991) no 45.

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/D. PARTICULAR TYPES OF BILL/857. Bills conferring powers on companies.

D. PARTICULAR TYPES OF BILL

857. Bills conferring powers on companies.

Compliance with certain standing orders must be proved by the promoters of private bills conferring powers upon companies¹. The requirements of these standing orders depend upon whether (1) the promoters are a company constituted by Act of Parliament²; (2) the promoters are a non-statutory company, society, association or partnership, whether a company within the meaning of the Companies Act 1985 or otherwise constituted³; or (3) the bill confers powers upon or alters the constitution of any company, society, association or partnership named in the bill but not being promoters of it⁴.

In the case of a company constituted by Act of Parliament, the bill, as presented or proposed to be presented to Parliament, must be submitted to the proprietors of the company at a meeting held specially for the purpose, and the bill must be approved by proprietors holding three-fourths of the paid-up capital of the company represented by the votes at that meeting⁵.

In the case of a bill promoted by a company, society, association or partnership falling within head (2) above, the promoters must submit the bill, as presented or proposed to be presented to Parliament, for approval by a special resolution of the company, if the company is a company within the meaning of the Companies Act 1985⁶. If the company, society, association or partnership has been otherwise constituted, the bill must be consented to by three-fourths in number and, where applicable, in value of the proprietors or members present and voting at a meeting convened by notice⁷.

If the bill confers powers upon, or alters the constitution of, any company, society, association or partnership named in the bill but not being promoters of it, it is necessary to obtain the consents to the bill, as presented or proposed to be presented, of the proprietors or members of any company concerned, in the same manner as if the company had been the promoters of the bill⁸. However, these consents need not be obtained if the bill proposes the compulsory acquisition of the company by the promoters, or the imposition of any duty or obligation upon, or the limitation of any power of, the company, or if the provisions of the bill are for the protection of the company⁹.

1 See HL Standing Orders (Private Business) (1991) nos 62-67; HC Standing Orders (Private Business) (1991) nos 62-67. In each House of Parliament, proof of compliance with these standing orders must be given after the second reading in the case of bills originating in that House. In the case of bills brought from the other House in which provisions conferring certain powers upon companies etc have been inserted, or materially altered, in that House, proof must be given after the first reading in the second House that the provisions have been approved by the members of the companies etc concerned, in the manner prescribed in the orders.

2 See HL Standing Orders (Private Business) (1991) nos 62, 65; HC Standing Orders (Private Business) (1991) nos 62, 65.

3 See HL Standing Orders (Private Business) (1991) nos 63, 66; HC Standing Orders (Private Business) (1991) nos 63, 66; and as to companies within the meaning of the Companies Act 1985 see COMPANIES vol 14 (2009) PARA 14 et seq.

4 See HL Standing Orders (Private Business) (1991) nos 64, 67; HC Standing Orders (Private Business) (1991) nos 64, 67.

5 The meeting must be advertised twice in a newspaper published in London or Edinburgh, as the case may be, and also in a newspaper circulating in the county or, in Scotland, the islands area or district in which the

company's principal office is situated; and a notice, enclosing a form of proxy, must be sent to each proprietor on the register of the company. At the meeting, a poll may be demanded by any three proprietors present in person or by proxy and entitled to vote, or of any smaller number of proprietors if they hold not less than 15% of the paid-up capital represented by the proprietors present. If a poll is taken, a statement of the number of votes must be deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons: HL Standing Orders (Private Business) (1991) nos 62(1), 65; HC Standing Orders (Private Business) (1991) nos 62(1), 65. As to the Clerk of the Parliaments see PARA 551 ante.

6 See HL Standing Orders (Private Business) (1991) nos 63(1), 66(1); HC Standing Orders (Private Business) (1991) nos 63(1)(a), 66(1).

7 HL Standing Orders (Private Business) (1991) nos 63(1), 66(2); HC Standing Orders (Private Business) (1991) nos 63(1)(b)(i), 66(2). A poll may be demanded by any three proprietors or members present in person or by proxy at the meeting and entitled to vote, or by any smaller number of proprietors or members, if they represent not less than 15% of the paid-up capital represented by the proprietors or members so present: HL Standing Orders (Private Business) (1991) nos 63(1), 66; HC Standing Orders (Private Business) (1991) nos 63(1)(b)(iii), 66. If a poll is taken, a statement of the number of votes must be deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons: HL Standing Orders (Private Business) (1991) nos 63(1), 66; HC Standing Orders (Private Business) (1991) nos 63(1)(b)(iv), 66.

8 See HL Standing Orders (Private Business) (1991) nos 64, 67; HC Standing Orders (Private Business) (1991) nos 64, 67.

9 HL Standing Orders (Private Business) (1991) nos 64(1) proviso, 67(1) proviso; HC Standing Orders (Private Business) (1991) nos 64(1) proviso, 67(1) proviso.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iii) Preliminary Proceedings on Private Bills/D. PARTICULAR TYPES OF BILL/858. Bills setting up companies to carry on undertaking.

858. Bills setting up companies to carry on undertaking.

Where a bill originating in one House of Parliament and brought to the other House proposes to set up a company for carrying on any work or undertaking, it must be proved before the examiners that any person specified in the bill as manager, director or proprietor of the company has given his consent to its proposals¹.

1 See HL Standing Orders (Private Business) (1991) no 68; HC Standing Orders (Private Business) (1991) no 68. As to the examiners see PARA 859 et seq post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iv) Examiners/859. The examiners.

(iv) Examiners

859. The examiners.

In each House of Parliament one or more officers of the House are appointed to examine all petitions for private bills and to ensure that the standing orders of the House have been complied with by the promoters. These officers are known as the Examiners of Petitions for Private Bills. In the House of Lords the examiners are appointed by the House itself¹; in the

House of Commons they are appointed by the Speaker². Each examiner is an officer of both Houses, and consequently may act for either.

1 HL Standing Orders (Private Business) (1991) no 69.

2 HC Standing Orders (Private Business) (1991) no 69. For the duties of the examiners with regard to hybrid bills see PARA 840 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iv) Examiners/860. Examination of petitions.

860. Examination of petitions.

On 18 December of every year, after giving at least seven clear days' notice of the day appointed for the examination of each petition¹, the two examiners examine the petitions for private bills proposed to be presented to either House of Parliament². The petitioners or their agents appear before one or other of the examiners in order to prove that the requirements of the standing orders of the two Houses have been complied with; and any parties, upon the presentation of a memorial complaining that any standing order has not been complied with by the promoters, are entitled to appear before the examiner either personally or by their agents, in support of their contention, provided that the matter of which they complain is specifically stated in the memorial³.

1 HL Standing Orders (Private Business) (1991) no 71; HC Standing Orders (Private Business) (1991) no 72.

2 HL Standing Orders (Private Business) (1991) no 70; HC Standing Orders (Private Business) (1991) no 71. The standing orders require the examination to commence on 18 December (or on 19 or 20 December, as appropriate, where 18 December is a Saturday or a Sunday), but in practice the examination is now always carried out entirely on that day.

3 See HL Standing Orders (Private Business) (1991) no 76, 77; HC Standing Orders (Private Business) (1991) nos 75, 76. The memorial must be signed by the party, if any, specially affected by the alleged non-compliance or by his agent: HL Standing Orders (Private Business) (1991) nos 76, 77; HC Standing Orders (Private Business) (1991) nos 75(1), 76. As to the withdrawal of such a memorial see HL Standing Orders (Private Business) (1991) no 79; HC Standing Orders (Private Business) (1991) no 76A.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iv) Examiners/861. Duty of the examiner.

861. Duty of the examiner.

It is the duty of one or other of the examiners to decide whether or not the standing orders have been complied with and to inform each House of Parliament accordingly. If the standing orders have not been complied with, the examiner must draw up a report stating the facts on which his decision is based, and he must also state any special circumstances in the case¹.

1 HL Standing Orders (Private Business) (1991) no 72 (which refers to a 'certificate' of the examiner); HC Standing Orders (Private Business) (1991) no 70.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iv) Examiners/862. Effect of compliance or non-compliance with standing orders.

862. Effect of compliance or non-compliance with standing orders.

If the necessary standing orders precedent and incidental to a petition for a private bill have been complied with, the bill may be presented to the House of Parliament in which it has been decided that it is to originate. However, if the examiner reports that the promoters have not complied with the standing orders, the petition for the bill, together with the examiner's report with regard to it, is referred to the Standing Orders Committee¹ in each House. The object of making this reference immediately to both committees is to spare the promoters the risk of having their bill rejected in the second House on the ground of non-compliance with standing orders after they have gone to the expense of carrying it through the first House, in which their non-compliance with the standing orders might have been condoned.

If the examiner feels any doubt as to the due construction of any standing order in its application to a particular case, he must make a special report of the facts without deciding whether or not the standing order in question has been complied with².

1 As to the Standing Orders Committees see PARA 864 et seq post.

2 HL Standing Orders (Private Business) (1991) no 81; HC Standing Orders (Private Business) (1991) no 79. Such special reports, which are rare, are referred to the Standing Orders Committee in each House.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(iv) Examiners/863. Examination of petition for additional provision in a bill, and of certain bills after second reading.

863. Examination of petition for additional provision in a bill, and of certain bills after second reading.

In each House of Parliament, in addition to the original petition for a private bill, every petition for the insertion of an additional provision in a bill which has already been introduced is referred to the examiner¹, and every private bill promoted by a company or other body to which the standing orders require the consent of the proprietors or members to be signified² is referred to the examiner after it has been read a second time³.

In each House also any bill originating in the other House for the purpose of establishing a company for carrying on any work or undertaking in which any person is specified as manager, director or proprietor is referred to the examiner for special inquiry⁴.

Every private bill which has been passed by one House is referred to the examiners by the other House before it can be read a second time, in order that they may report whether such standing orders as have not been previously inquired into have or have not been complied with⁵.

1 HL Standing Orders (Private Business) (1991) no 73(3); HC Standing Orders (Private Business) (1991) no 73(1). The examiner must give at least two clear days' notice of the day on which a petition for additional

provision will be examined: HL Standing Orders (Private Business) (1991) no 73(4); HC Standing Orders (Private Business) (1991) no 73(2).

2 See PARA 857 ante.

3 See HL Standing Orders (Private Business) (1991) nos 62(1), 63(1), 64(1); HC Standing Orders (Private Business) (1991) nos 62(1), 63(1), 64(1).

4 See PARA 858 ante.

5 HL Standing Orders (Private Business) (1991) no 74(1); HC Standing Orders (Private Business) (1991) no 74(1). The examiners must give at least two clear days' notice of the day on which a private bill referred to them under these standing orders is to be examined: HL Standing Orders (Private Business) (1991) no 74(2); HC Standing Orders (Private Business) (1991) no 74(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(v) Standing Orders Committees/864. The Standing Orders Committee of the House of Lords.

(v) Standing Orders Committees

864. The Standing Orders Committee of the House of Lords.

The Standing Orders Committee of the House of Lords consists of the Chairman of Committees and such other lords as are named by the House, on the proposal of the Committee of Selection, at the beginning of every session¹. Three lords, including the chairman, form a quorum in opposed cases, whereas the Chairman of Committees may act alone in unopposed cases².

¹ HL Standing Orders (Private Business) (1991) no 84. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852.

² Ibid no 85. In practice he invariably acts alone in such cases, with the assistance of his counsel.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(v) Standing Orders Committees/865. The Standing Orders Committee of the House of Commons.

865. The Standing Orders Committee of the House of Commons.

The Standing Orders Committee of the House of Commons is composed of the Chairman of Ways and Means, who is ex officio chairman of the committee, the deputy chairmen and eight members nominated by the Committee of Selection at the beginning of every session. The quorum of the committee is three and the committee has the assistance of the counsel to the Speaker¹.

¹ HC Standing Orders (Private Business) (1991) no 103. As to procedure see PARA 868 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(v) Standing Orders Committees/866. Duties.

866. Duties.

The duty of each Standing Orders Committee is to take into consideration the examiner's certificates or reports, as the case may be, of non-compliance with the standing orders¹, and to report to the House whether or not the standing orders with which the promoters of a bill have not complied should be dispensed with². In both Houses of Parliament the examiner's reports are conclusive on the question of non-compliance with standing orders. Where the examiner has made a special report setting out a statement of facts without deciding whether the standing orders have or have not been complied with, it is the duty of the committee to determine, on the basis of the examiner's statement of facts, which is conclusive, whether the standing orders have or have not been complied with and to report to the House accordingly; and if the committee determines that the standing orders have not been complied with its report must indicate whether or not they should be dispensed with³.

1 In the House of Commons the committee also considers and reports to the House with regard to cases of non-compliance with the standing orders in respect of petitions against bills. In the House of Lords a petitioner against a bill who has not complied with the standing orders must obtain the permission of the Chairman of Committees before the House will allow him to present his petition.

2 See HL Standing Orders (Private Business) (1991) no 87; HC Standing Orders (Private Business) (1991) no 104.

3 See HL Standing Orders (Private Business) (1991) no 87(2); HC Standing Orders (Private Business) (1991) no 104(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(v) Standing Orders Committees/867. Procedure of the Standing Orders Committee of the House of Lords.

867. Procedure of the Standing Orders Committee of the House of Lords.

In the House of Lords, three clear days' notice must be given of a meeting of the Standing Orders Committee. The committee is empowered to hear the parties affected by any standing order referred to in the examiners' certificate or special report, provided that those parties have deposited in the office of the Clerk of the Parliaments, by not later than 3 pm on the second day after the order for the meeting of the committee is made, a statement of the facts to be submitted to the committee. This statement, signed by the party or his agent, must be strictly confined to the points reported on by the examiners; and the agents for the parties, who are invariably heard by the committee, may not raise any matter not referred to in their statements¹.

1 See HL Standing Orders (Private Business) (1991) no 88.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(v) Standing Orders Committees/868. Procedure of the Standing Orders Committee of the House of Commons.

868. Procedure of the Standing Orders Committee of the House of Commons.

In the House of Commons, according to the usual practice of the Standing Orders Committee, the agents for the promoters, and, in an opposed case, the agent for any memorialist who appeared before the examiners, prepare written statements of their case, which must be delivered to the clerk of the committee for all members of the committee by not later than noon on the second day preceding the meeting of the committee. The committee usually hears the parties, or their agents, only if clarification of the statements is needed; or, in an opposed case, it may decide to hear one statement on each side, even where on one side several parties may be interested¹.

¹ The procedure of the Standing Orders Committee is regulated by sessional resolutions of the committee. See also HC Standing Orders (Private Business) (1991) no 107A.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(v) Standing Orders Committees/869. Refusal to dispense with standing orders.

869. Refusal to dispense with standing orders.

If the Standing Orders Committee in either House of Parliament refuses to dispense with the standing orders and reports in this sense to the House the promoters cannot proceed any further with their bill or that part of it which does not comply with the standing orders unless the House takes further action.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(vi) Fees, Charges and Taxation of Costs/870. Fees and charges.

(vi) Fees, Charges and Taxation of Costs

870. Fees and charges.

Fees are payable by promoters of a private bill on first reading and following third reading in each House of Parliament. Opponents of a private bill must pay a fee on presenting their petition, or on depositing a memorial complaining of a non-compliance with standing orders. The fees are the same in each House¹. One quarter of the usual fees for promoters may be charged on proceedings in both Houses on bills relating to charitable, religious, educational, literary or scientific purposes from which no private profit or advantage is derived and on bills, other than those promoted by local authorities, from which the promoter appears unlikely to derive substantial personal or corporate gain. One twentieth of the usual fees may be charged to the promoters of personal bills².

There is also a list of charges which parliamentary agents³, solicitors⁴ and others may properly make in preparing, presenting and carrying through Parliament a private bill. This list is drawn up under statutory authority by the Clerk of the Parliaments in the House of Lords and by the Speaker in the House of Commons⁵.

1 For the schedule of fees see HL Standing Orders (Private Business) (1991), Table of Fees (p 121); and HC Standing Orders (Private Business) (1991), Table of Fees (p 126).

2 See HL Standing Orders (Private Business) (1991) Table of Fees, Pt I; HC Standing Orders (Private Business) (1991) Table of Fees, Pt I.

3 As to parliamentary agents see PARAS 848-849 ante.

4 For these purposes, 'solicitor' includes a body corporate recognised by the Council of the Law Society under the Administration of Justice Act 1985 s 9 (as amended) (see LEGAL PROFESSIONS vol 65 (2008) PARA 687 et seq); see the Solicitors' Incorporated Practices Order 1991, SI 1991/2684, arts 2-5, Sch 1.

5 See the House of Commons Costs Taxation Act 1847 s 4 (amended by the Statute Law Revision Act 1894); and the House of Lords Costs Taxation Act 1849 s 4 (amended by the Statute Law Revision Act 1892; and the Statute Law (Repeals) Act 1993). The charges were revised in July 1996. As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855; and as to the Speaker see PARLIAMENT vol 78 (2010) PARA 931. As to recovery of costs see PARA 899 post.

UPDATE

870 Fees and charges

TEXT AND NOTES 4, 5--1847 Act s 4 and 1849 Act s 4 consolidated in the Parliamentary Costs Act 2006 s 2.

NOTE 4--SI 1991/2684 renamed the Solicitors' Recognised Bodies Order 1991: SI 2009/500. SI 1991/2684 art 3 amended: SI 2009/500.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(vi) Fees, Charges and Taxation of Costs/871. Taxation of costs.

871. Taxation of costs.

Costs incurred by promoters and opponents of private bills are subjected by statute to a system of taxation¹. An officer in each House of Parliament carries out this duty². In the House of Lords he is appointed by the Clerk of the Parliaments³ and in the House of Commons by the Speaker⁴.

If any bill of costs so taxable comprises any costs, charges and expenses incurred in respect of a private bill, but not taxable under the relevant statutory provisions⁵, it is lawful for the taxing officer of the House in question either to tax and settle them or to request the proper officer of any other court having such an officer to assist him in taxing and settling any part of such a bill⁶.

1 See the House of Commons Costs Taxation Act 1847 ss 8, 9 (amended by the Statute Law Revision Act 1894; the Statute Law (Repeals) Act 1993); the House of Lords Costs Taxation Act 1849 ss 8, 9 (as so amended); and the Parliamentary Costs Act 1865 s 3. In practice taxation is now very rare.

2 See the House of Commons Costs Taxation Act 1847 s 3; the House of Lords Costs Taxation Act 1849 s 3 (amended by the Statute Law (Repeals) Act 1993). The taxing officer may examine parties and witnesses on oath and may receive affidavits; he may call for the production of any books or writings in the hands of any party to the taxation, may demand and receive such fees for any such taxation as the House may authorise and direct, and may award costs of the taxation against either party or in such proportion against each party as he may think fit: see the House of Commons Costs Taxation Act 1847 ss 5-7 (s 5 amended by the Perjury Act 1911 s 17; and the Statute Law (Repeals) Act 1993); the House of Lords Costs Taxation Act 1849 ss 5-7 (as so amended); and the Parliamentary Costs Act 1865 s 4. In case the taxing officer of either House is requested by the proper officer of any other court to assist him in taxing and settling any costs, charges and expenses

incurred in respect of a private bill, being part of any bill of costs which have been referred to him by the court of which he is the proper officer, the taxing officer so requested must thereupon proceed to tax and settle those costs, and must make a return to the proper officer who requested him to tax and settle them; and in performing this function he may receive the same fees in respect of the taxation as if application had been made to him for the taxation in pursuance of the House of Lords Costs Taxation Act 1849 or the House of Commons Costs Taxation Act 1847, as the case may be: House of Lords Costs Taxation Act 1849 s 12.

3 House of Lords Costs Taxation Act 1849 s 3 (as amended: see note 2 *supra*).

4 House of Commons Costs Taxation Act 1847 s 3.

5 lie under the House of Lords Costs Taxation Act 1849 or the House of Commons Costs Taxation Act 1847: see the text and notes 1-4 *supra*.

6 See the House of Lords Costs Taxation Act 1849 s 10. The amount of any such costs, charges and expenses may be included in the report of the taxing officer of the House relating to his taxation of any such bill of costs: see s 11.

UPDATE

871 Taxation of costs

TEXT AND NOTES--1847 Act, 1849 Act and 1865 Act consolidated in the Parliamentary Costs Act 2006. As to the assessment of disputed costs under the 2006 Act see ss 3-8, and as to the functions of taxing officers, see s 13.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/A. ALLOCATION OF BILLS AND FIRST READING/872. Allocation of bills.

(vii) Proceedings in Both Houses of Parliament on Private Bills

A. ALLOCATION OF BILLS AND FIRST READING

872. Allocation of bills.

A private bill may originate in either House of Parliament. A meeting is required to be held on or before 8 January in every year between the Chairman of Committees in the House of Lords or his counsel and the Chairman of Ways and Means or the counsel to the Speaker, when it is decided in which House each private bill should originate¹. Personal bills invariably originate in the House of Lords² and in recent years it has become the practice for all local authority bills to originate there.

1 HL Standing Orders (Private Business) (1991) no 90; HC Standing Orders (Private Business) (1991) no 81. In practice the decision is normally taken and published before the two Houses rise for the Christmas adjournment.

2 See PARA 907 note 2 *post*.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses

of Parliament on Private Bills/A. ALLOCATION OF BILLS AND FIRST READING/873. First reading generally.

873. First reading generally.

In both Houses of Parliament the first reading of a private bill is a formal matter. The bill is presented by being laid upon the table of the House in which it is to originate, and is deemed to have been read the first time. In the House of Commons the bill is ordered to be read a second time.

For purposes of presentation, a House copy of every private bill must be printed at the expense of the promoters on paper of a size to be determined by the Speaker and in the same style as a public bill and must be enclosed in a cover of parchment inscribed with the short title of the bill¹. Copies must also be obtainable by lords and members of the House of Commons. On presentation to the House of Commons, every private bill which involves a grant from any government department must have bound with it a financial memorandum², and all charges affecting the public revenue which occur in the clauses of a private bill must be printed in italics³.

1 HC Standing Orders (Private Business) (1991) no 164.

2 Ibid no 169.

3 Ibid no 168.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(5) Private Legislation/ (vii) Proceedings in Both Houses of Parliament on Private Bills/A. ALLOCATION OF BILLS AND FIRST READING/874. First reading in the House of Lords.

874. First reading in the House of Lords.

A private bill which originates in the House of Lords may not be read the first time earlier, nor more than seven sitting days later, than:

- 8 (1) the day on which the examiner's certificate that the standing orders have been complied with is laid upon the table¹; or
- 9 (2) where the examiner has made a special report, the day on which a report is made by the Standing Orders Committee that the standing orders have been complied with²; or
- 10 (3) the day on which the House, on considering a report from the Standing Orders Committee that the standing orders ought to be dispensed with, agrees that the bill should be allowed to proceed³.

1 HL Standing Orders (Private Business) (1991) no 98(1)(a). As to this certificate see PARA 861 ante.

2 Ibid no 98(1)(b). As to the committee's report see PARA 866 ante.

3 Ibid no 98(1)(c).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/A. ALLOCATION OF BILLS AND FIRST READING/875. First reading in the House of Commons.

875. First reading in the House of Commons.

A private bill originating in the House of Commons must be presented to the House on 21 January or, if the House is not sitting on that day, on the first sitting day thereafter, if the examiner has reported that the standing orders have been complied with¹. If the standing orders have not been complied with, the bill must be presented on the day after the House has agreed to a report from the Standing Orders Committee that the standing orders ought to be dispensed with². Similarly, where the examiner has made a special report, the bill must be presented on the day after the House has agreed to a report of the Standing Orders Committee that the standing orders have been complied with or has given leave that they should be dispensed with³.

1 HC Standing Orders (Private Business) (1991) no 163(1). As to the examiner's report see PARA 861 ante.

2 Ibid no 163(2). If such leave is given before 21 January, then the bill must be presented on that day or on the first sitting day thereafter: no 163(2). As to the committee's report see PARA 866 ante.

3 See ibid no 163(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/B. SECOND READING/876. Duties of the Chairman of Committees and the Chairman of Ways and Means.

B. SECOND READING

876. Duties of the Chairman of Committees and the Chairman of Ways and Means.

The second reading and subsequent stages of private bills are normally moved by the Chairman of Committees in the House of Lords and the Chairman of Ways and Means in the House of Commons. The two chairmen by practice¹ supervise the passage of private bills through Parliament². In discharging this duty they are advised respectively by the counsel to the Chairman of Committees and the counsel to the Speaker.

1 Specific powers and duties in regard to private bills are also conferred or laid upon the two chairmen by standing orders. In the Lords, the Chairman of Committees may: (1) refer a memorial complaining of non-compliance with standing orders to the examiners (see HL Standing Orders (Private Business) (1991) no 78); (2) direct the attention of the House, or of the committee to which the bill is committed, to any special circumstances relative to it (see no 91); (3) report to the House that in his opinion any unopposed private bill should be proceeded with as an opposed private bill (see no 92); (4) call the attention of the House in every case where it is sought by a proposed instruction to authorise or require a committee on a private bill to make an amendment to a private bill, if in his opinion such an amendment could not have been proposed by the promoters otherwise than by a petition for additional provision (see no 93); (5) propose to the House that any private bill must, after it has been reported, be recommitted to a committee of the whole House (see no 94); (6) name the lords to form committees on private bills, unless he is of the opinion that their members should be selected and proposed to the House by the Committee of Selection or unless two or more members of that committee request a meeting for that purpose (see nos 95, 104); (7) grant leave for the deposit of a private bill which has not been deposited in accordance with standing orders (see no 97); (8) fix the order in which private bills are considered in select committees (see no 107); (9) authorise printing of the minutes of evidence taken

before a committee on an opposed private bill (see no 110); (10) direct that an opposed private bill in respect of which a report has been made that it should be allowed to proceed should not be recommitted to an unopposed private bill committee (see no 121(1)(b)); (11) constitute each unopposed private bill committee (see no 121(2) (a)); (11) waive the requirement to reprint a private bill as amended in committee (see no 128); (12) determine any difference arising, after the discharge of the committee, between the parties to any arrangement between the promoters of a private bill and any other party appearing before the committee (see no 130); (13) give general or special directions as to procedure (see no 151(2)); (14) determine the times when petitions against personal bills may be presented (see no 158); (15) report to the House that any unopposed personal bill should be proceeded with as an opposed bill (see no 160); and (16) give directions as to which of the provisions of nos 1-3 and nos 69-150 relating to private bills are to apply to any personal bill (see no 174). For the similar powers and duties of the Chairman of Ways and Means in the Commons see HC Standing Orders (Private Business) (1991) nos 2A, 82, 85, 131A, 181-183, 186, 191A.

2 In the Lords the chairman's deputies may act for him for all purposes connected with private bills: see HL Standing Orders (Private Business) (1991) no 94A.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/B. SECOND READING/877. Second reading in the House of Lords.

877. Second reading in the House of Lords.

In the House of Lords, a private bill which originates in that House must be set down for second reading not earlier than the second day on which the House sits for public business after it has been read a first time¹. Notice must be given in the minutes of proceedings of the day upon which the second reading of a bill is to be taken.

If the Chairman of Committees considers that the opposition to a bill is sufficient to justify him in refusing to move the second reading, he asks the promoters to arrange for another lord to do so.

1 See HL Standing Orders (Private Business) (1991) no 99(1). In practice second reading is not taken before the time for petitioning against the bill has expired. As to petitioning time see PARA 882 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/B. SECOND READING/878. Second reading in the House of Commons.

878. Second reading in the House of Commons.

In the House of Commons, at least four clear days must elapse between the first and second reading of a private bill. The agent for the bill must give at least three clear days' notice in writing to the clerks in the Private Bill Office of the day proposed for second reading, and this notice may not be given until the day after the bill has been ordered to be read a second time¹. Notice of second reading of a bill originating in the Commons must be given for a day not later than the eighth day after first reading².

If the second reading or any later stage of a private bill is opposed, it must be deferred until some future day at the time at which private business is usually taken³ or until 7 pm on any day that the Chairman of Ways and Means may appoint⁴. No opposed private business may be appointed for a Friday⁵.

Private business continues to be treated as opposed if it consists of proceedings on a bill which has been thus deferred, so long as a notice of motion stands on the notice paper in one of the forms described below; and in these circumstances it cannot be proceeded with as unopposed business at 2.30 pm. The usual notice of motion is that a bill be read a second time on the day six months from this, but a notice may also be given of a motion for a reasoned amendment to the question for second reading⁶. When the second reading comes to be taken at 7 pm, it is not the practice for the Speaker to select such motions, leaving it to members simply to vote against the question for second reading if they wish.

1 HC Standing Orders (Private Business) (1991) no 198(1).

2 See *ibid* no 198(2).

3 *Ie* after prayers at 2.30 pm: see PARLIAMENT vol 78 (2010) PARA 968.

4 See HC Standing Orders (Private Business) (1991) no 174(1), (2), (3).

5 *Ibid* no 174(4). This order also applies when objection is taken in the House to the consideration or third reading of a private bill: no 174(3).

6 For a description of the practice of the House on second reading see Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 39.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/B. SECOND READING/879. Effect of second reading of a private bill.

879. Effect of second reading of a private bill.

In neither House of Parliament is it possible to state, as may be said of a public bill, that in giving a private bill a second reading the House affirms the principle of the bill. In giving the bill a second reading the House does no more than agree that the bill should go forward for consideration by a committee which will inquire into its merits. For this reason a private bill is not often refused a second reading in either House¹.

1 In the House of Lords it is extremely rare; the last instances were in 1937 (North Devon Water Bill and North Devon Electric Power Bill).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/B. SECOND READING/880. Instructions.

880. Instructions.

When a bill has been read a second time in either House of Parliament, an instruction may be given to the committee on the bill. It is open to any lord or member to move an instruction, but in the House of Lords, if an instruction authorises or requires a committee to make an amendment in a bill which, in the opinion of the Chairman of Committees, could not have been proposed by the promoters except on a petition for additional provision, the chairman must call

the attention of the House to the fact¹. In the same circumstances the Speaker of the House of Commons must decline to propose the question on the instruction².

1 See HL Standing Orders (Private Business) (1991) no 93.

2 See HC Standing Orders (Private Business) (1991) no 175. As to petitions for additional provision see PARA 852 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/C. PETITIONS AGAINST PRIVATE BILLS/881. Presentation of petitions.

C. PETITIONS AGAINST PRIVATE BILLS

881. Presentation of petitions.

Opponents of a private bill may present petitions to either House of Parliament praying to be heard against the bill. These petitions are presented by being deposited in the office of the Clerk of the Parliaments in the House of Lords or the Private Bill Office of the House of Commons¹; and, if they are presented in accordance with the requirements of the standing orders, they stand referred to the committee on the bill².

A petitioner who prays to be heard against a private bill must specify distinctly in his petition the grounds of his objection, and the committee on the bill may hear a petitioner only on the grounds stated in the petition³.

1 See HL Standing Orders (Private Business) (1991) no 101; HC Standing Orders (Private Business) (1991) no 171.

2 See HL Standing Orders (Private Business) (1991) no 109; HC Standing Orders (Private Business) (1991) no 126.

3 See HL Standing Orders (Private Business) (1991) no 111; HC Standing Orders (Private Business) (1991) no 128. Petitions to the House of Lords should be superscribed 'To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled'; to the House of Commons, 'To the Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled'. This general designation of the parties to the petition should follow: 'The humble petition of [petitioners' names and designations] sheweth'. The general allegations of the petitioners should then be set forth, followed by the prayer in which they humbly pray the House not to allow the bill to pass into law. To the petition are added the words 'And your petitioners will ever pray, etc', followed by the signatures of the petitioners. In both Houses a petition may be written, typewritten or printed, or lithographed either on parchment or paper. At least one signature must be upon the same sheet or skin upon which the petition is written. The signatures must not be pasted on. The petitions of a corporation must be under its common seal.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/C. PETITIONS AGAINST PRIVATE BILLS/882. Deposit of petitions in the House of Lords.

882. Deposit of petitions in the House of Lords.

In the House of Lords any petition against a private bill originating in that House must be presented¹ on or before 6 February signed by the petitioner or his agent². Any petition against a late private bill³ or against a private bill which is brought up from the House of Commons must be deposited at any time not later than the tenth day⁴ after that on which the bill was read a first time⁵.

1 le by being deposited in the Office of the Clerk of the Parliaments between 11 am and 5 pm on any sitting day and between 11 am and 1 pm on any other day: HL Standing Orders (Private Business) (1991) nos 101, 201.

2 Ibid no 101.

3 As to late bills see PARA 851 ante.

4 For the extension of time for presenting petitions expiring during a recess etc see HL Standing Orders (Private Business) (1991) no 201A.

5 Ibid no 101 proviso. The time limits in no 101 do not apply to petitions complaining of a matter which has arisen during the progress of a bill before a committee or of amendments proposed in a filled-up bill: no 101.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/C. PETITIONS AGAINST PRIVATE BILLS/883. Deposit of petitions in the House of Commons.

883. Deposit of petitions in the House of Commons.

In the House of Commons any petition against a private bill originating in that House on which the examiner has reported that the standing orders have been complied with¹ must be presented² on or before 30 January³. A petition against any other private bill, such as a bill brought from the House of Lords, or a late bill⁴ must be presented not later than the tenth day after the first reading of the bill⁵.

1 le under HC Standing Orders (Private Business) (1991) no 163 (see PARA 875 ante): no 171A(1).

2 le by being deposited in the Private Bill Office between 11 am and 5 pm (or, on a Friday, between 9 am and 3 pm) on any sitting day and between 11 am and 1 pm on any other day: ibid no 209.

3 Ibid no 171A(1).

4 As to late bills see PARA 851 ante.

5 HC Standing Orders (Private Business) (1991) no 171A(1). This provision does not apply to any petition (1) presented against a bill after it has been reported from a committee; or (2) against a personal bill; or (3) in which the petitioners complain of any amendment as proposed in a filled-up bill, or of any proposed additional provision or of any matter which has arisen during the progress of a bill before a committee: nos 171, 171A(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/C. PETITIONS AGAINST PRIVATE BILLS/884. Petitions against alterations and additional provisions.

884. Petitions against alterations and additional provisions.

In either House of Parliament, a petition against an alteration proposed to be made in the bill as presented to Parliament and against an additional provision may be presented at any time before the committee has reported the bill to the House¹.

1 HL Standing Orders (Private Business) (1991) no 101 (see PARA 882 ante) which sets out the time limits for the presentation of petitions excludes such a petition from those time limits (see PARA 882 note 5 ante); and HC Standing Orders (Private Business) (1991) no 171A(2) excludes them from the time limits set out in no 171A(1) (see PARA 883 note 5 head (3) ante).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/D. LOCUS STANDI OF PETITIONERS/885. Standing orders conferring locus standi.

D. LOCUS STANDI OF PETITIONERS

885. Standing orders conferring locus standi.

In both Houses of Parliament there are standing orders which give to certain classes of petitioners a definite locus standi or right to appear in opposition to any bill the provisions of which may affect them injuriously and other standing orders which confer a discretion to allow certain kinds of representative body to appear in opposition to a bill which may adversely affect the interests or area they represent¹. However, these standing orders do not cover all the cases in which an individual or body of individuals may be permitted to ask a committee on a private bill in either House of Parliament to refuse to sanction or to amend it.

The right of any petitioner whose claim to be heard in opposition to a private bill is not definitely recognised in the standing orders must depend upon the merits of his individual case. The general principle is that any person or body of persons whose interests or property are directly and specially affected by a provision in any private bill will be allowed to oppose that bill in both Houses of Parliament.

1 See HL Standing Orders (Private Business) (1991) no 115 (members of an incorporated company, society, association or partnership which is promoting a bill if their interests are distinct from that company or body); no 117 (trade or business associations or societies, associations or other bodies sufficiently representing amenity, travel or recreational interests); no 118 (local authority or inhabitants of an area the whole or any part of which is alleged to be injuriously affected); nos 119, 120 (local authorities in relation to lighting, water, and tramway bills); HC Standing Orders (Private Business) (1991) no 92 (petitioners on the ground of competition); no 93 (members of an incorporated company, society, association or partnership which is promoting a bill if their interests are distinct from that company or body); no 95 (trade or business associations or societies, associations or other bodies sufficiently representing amenity, travel or recreational interests); no 96 (local authority or inhabitants of an area the whole or any part of which is alleged to be injuriously affected); nos 97, 98 (local authorities in relation to lighting, water, and tramway bills); no 99 (river authorities (in practice, now the Environment Agency) and landowners in relation to water bills); no 100 (drainage bodies (referred to in no 100 as 'drainage authorities') in relation to water bills); no 101 (conservators of forests, open spaces and commons); no 102 (landowners etc in relation to tramway bills). Works bills in relation to lighting, water and tramways are now, however, most unlikely to be before Parliament: see PARA 846 ante. As to the Environment Agency and drainage bodies see WATER AND WATERWAYS vol 101 (2009) PARA 573 et seq.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/D. LOCUS STANDI OF PETITIONERS/886. Objection to petitioners' locus standi.

886. Objection to petitioners' locus standi.

The procedure in relation to the determination of the locus standi of a petitioner is different in each House of Parliament.

In the House of Lords, it is left to the committee to which the bill is committed to decide, after hearing arguments on both sides, whether the petitioner has sufficient grounds of complaint to justify his being heard in opposition to the proposed measure¹.

In the House of Commons, if the locus standi of a petitioner against a private bill is objected to by the promoters within eight days after the petition in question has been lodged, the matter must be submitted to the consideration of the Court of Referees on private bills. The Court of Referees consists of the Chairman of Ways and Means, who, when present, is ex officio Chairman of the court, the deputy chairmen, the counsel to the Speaker and not fewer than seven other members of the House appointed by the Speaker². Three referees are sufficient to constitute the court³. It is the duty of the referees, after hearing arguments from not more than one counsel on each side, to decide whether or to what extent the petitioner is to be allowed to be heard before the committee to which the bill is to be referred. This duty is laid down by the House⁴, although the practice and procedure of the court are prescribed by rules framed by the Chairman of Ways and Means⁵. The court is empowered to administer oaths to witnesses⁶, but in practice does not do so.

1 HL Standing Orders (Private Business) (1991) no 114.

2 HC Standing Orders (Private Business) (1991) no 89(1). As to the Chairman of Ways and Means and deputy chairmen see PARAS 646-648 ante; and as to the Speaker see PARLIAMENT vol 78 (2010) PARA 931 et seq.

3 Ibid no 89(2).

4 See ibid no 90.

5 For the power to make such rules see ibid no 91. The rules are printed (see HC Paper 208 (1952-53)); and copies may be obtained from the office of the Court of Referees in the House of Commons. See also Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 38.

A petitioner against a private bill is entitled to be heard before the Court of Referees by himself, his counsel, or agents in support of his right to be heard upon his petition and the promoters of the bill are entitled to be heard by themselves, their counsel or agents in opposition to it: see HC Standing Orders (Private Business) (1991) no 91A.

6 Parliamentary Costs Act 1867 s 1.

UPDATE

886 Objection to petitioners' locus standi

TEXT AND NOTE 6--1867 Act s 1 consolidated in the Parliamentary Costs Act 2006 s 16.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(A) Committees in the House of Lords/887. Unopposed private bills.

E. COMMITTEES

(A) COMMITTEES IN THE HOUSE OF LORDS

887. Unopposed private bills.

In the House of Lords every unopposed private bill is committed to an unopposed bill committee¹. Such a committee consists of the Chairman of Committees, assisted by his counsel², and, should the Chairman of Committees see fit, such other lords as he may select from the panel of deputy chairmen³.

1 HL Standing Orders (Private Business) (1991) no 121(1)(a).

2 Ibid no 121(2)(b).

3 Ibid no 121(2)(a). As to the panel of deputy chairmen see PARLIAMENT vol 78 (2010) PARA 853.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(A) Committees in the House of Lords/888. Opposed bills.

888. Opposed bills.

In the House of Lords every private bill which is opposed is committed to a select committee of five lords nominated by the Chairman of Committees¹, who also appoints the chairman of the committee² and fixes the day for its first meeting. A lord is exempted from serving on the committee on any private bill in which he has an interest³.

If the committee reports that the bill should be allowed to proceed, then, unless the Chairman of Committees otherwise directs, it is recommitted to an unopposed bill committee, which may not vary any decision taken by the original committee⁴.

1 HL Standing Orders (Private Business) (1991) no 104. In some cases the members may be selected and proposed to the House by the Committee of Selection (see no 95(1)) but this occurs only rarely. As to the Committee of Selection see PARLIAMENT vol 78 (2010) PARA 889.

2 Ibid no 95(2).

3 Ibid no 96. Lords may also be excused from serving for any special reasons approved by the House: see no 96.

4 See ibid no 121(1)(b).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(B) Committees in the House of Commons/889. Committal.

(B) COMMITTEES IN THE HOUSE OF COMMONS

889. Committal.

In the House of Commons, when a private bill has been committed, it stands referred to the Committee of Selection, which is nominated by the House at the beginning of every Parliament, and consists of nine members, of whom three constitute a quorum¹. In special circumstances private bills have been committed to specially constituted committees².

1 HC Standing Orders (Private Business) (1991) no 109. For the nomination of members see 249 Commons Journals 30.

2 See PARLIAMENT vol 78 (2010) PARA 985. As to committees of the House of Commons generally see PARLIAMENT vol 78 (2010) PARA 979 et seq.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(B) Committees in the House of Commons/890. Opposed private bills.

890. Opposed private bills.

In the House of Commons, the Committee of Selection¹ has the duty to refer every opposed private bill to a committee of four members not locally or otherwise interested in the bill referred to it, and at the same time to nominate the chairman². It also fixes the time for the first sitting of each committee³.

1 As to the Committee of Selection see HC Standing Orders (Private Business) (1991) no 109; and PARA 889 ante.

2 Ibid no 111(1).

3 Ibid no 113.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(B) Committees in the House of Commons/891. Unopposed private bills.

891. Unopposed private bills.

In the House of Commons every unopposed private bill is referred by the Committee of Selection to a committee, called the Committee on Unopposed Bills, composed of the Chairman of Ways and Means, the deputy chairmen, and four members selected by the Chairman of Ways and Means from a panel of members appointed by the Committee of Selection at the beginning of every session¹. When present, either the Chairman of Ways and Means or one of the deputy chairmen is chairman of every committee on an unopposed private bill², and every such committee has the assistance of the counsel to the Speaker³. The quorum of a committee is three⁴. No member of a committee on any unopposed private bill in which he is locally or otherwise interested may vote on any question which arises, although he is entitled to attend the committee and take part in its proceedings⁵.

1 See HC Standing Orders (Private Business) (1991) no 111(2). As to the Chairman of Ways and Means and the deputy chairmen see PARLIAMENT vol 78 (2010) PARA 940 et seq.

2 See *ibid* no 132(1). As to the power to select a chairman in the absence of the Chairman of Ways and Means and the deputy chairmen see no 132(4).

3 *Ibid* no 132(2).

4 *Ibid* no 132(3).

5 See *ibid* no 133.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(C) Procedure in Committees/892. Attendance and sitting.

(C) PROCEDURE IN COMMITTEES

892. Attendance and sitting.

All lords or members appointed to serve on a committee on an opposed private bill must attend every sitting of the committee¹. In the absence of one of its members, a committee is permitted to sit, although in the House of Lords this practice is subject to the consent of the parties². In either House of Parliament the absence of any member of the committee must be reported to the House³. A committee sits from day to day until it has disposed of any bill referred to it. A committee in either House usually sits from 10.30 am and concludes its proceedings at about 4 pm, with an adjournment for luncheon.

1 See HL Standing Orders (Private Business) (1991) no 105; HC Standing Orders (Private Business) (1991) no 122(2).

2 See HL Standing Orders (Private Business) (1991) no 106(1), (2); HC Standing Orders (Private Business) (1991) no 121(1).

3 See HL Standing Orders (Private Business) (1991) no 106(1); HC Standing Orders (Private Business) (1991) no 121(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(C) Procedure in Committees/893. Documents placed before committees.

893. Documents placed before committees.

The procedure adopted by private bill committees is generally the same in each House of Parliament. In the House of Commons, at the first sitting of a committee, copies of the filled-up bill, containing all the amendments proposed to be made in committee to the bill as presented to the House, must be supplied to each member of the committee by the agent for the promoters¹. Copies of the filled-up bill must also be laid before the Chairman of Committees or the Chairman of Ways and Means, as the case may be, before the first sitting of the committee², and in the case of opposed or recommitted bills, two clear days before the committee sits³. This requirement enables the chairman concerned to draw the attention of the chairman of the committee to any point which appears to him to require it⁴. All reports on a

private bill made under the authority of a Minister of the Crown and presented to the House stand referred to the committee on the bill, and, if the report contains a recommendation, the committee may, if it thinks fit, hear a departmental representative in explanation of it⁵. If it rejects a recommendation, a Commons committee must report its reasons to the House⁶.

1 HC Standing Orders (Private Business) (1991) no 137.

2 HL Standing Orders (Private Business) (1991) no 123; HC Standing Orders (Private Business) (1991) no 84.

3 HL Standing Orders (Private Business) (1991) no 123 proviso; HC Standing Orders (Private Business) (1991) no 84 proviso.

4 See HL Standing Orders (Private Business) (1991) no 91; HC Standing Orders (Private Business) (1991) no 82.

5 See HL Standing Orders (Private Business) (1991) no 127; HC Standing Orders (Private Business) (1991) no 144.

6 Ibid no 144.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(C) Procedure in Committees/894. Right of audience before committees.

894. Right of audience before committees.

A private bill committee may not inquire into the compliance of the promoters with any standing orders compliance with which has to be proved before the examiners¹. Unless expressly authorised to do so, a committee may not hear evidence other than that tendered by or on behalf of any parties entitled to be heard². In an opposed bill committee, these parties are the promoters, who may be heard personally or by their counsel or agents in favour of the bill and against any petitions against the bill³, and any petitioners whose petition has been duly deposited and who may be heard personally or by counsel or agents⁴. In an unopposed bill committee, the only parties entitled to be heard are the promoters. They may appear either personally or by their agents or, in the House of Lords in cases where the Chairman of Committees sits with any of the deputy chairmen⁵, by their agents or counsel⁶. Proceedings are less formal than those of an opposed bill committee and, in the absence of opponents, a special responsibility devolves upon the committee to protect the public interest.

1 See HL Standing Orders (Private Business) (1991) no 125; HC Standing Orders (Private Business) (1991) no 139. As to proof before the examiners see PARAS 859-863 ante.

2 HL Standing Orders (Private Business) (1991) no 124; HC Standing Orders (Private Business) (1991) no 136. Special provision is made with regard to evidence on certain bills promoted by local authorities: see HL Standing Orders (Private Business) (1991) no 124A; HC Standing Orders (Private Business) (1991) no 136A. A Lords committee is given express power to admit affidavit evidence: see HL Standing Orders (Private Business) (1991) no 126.

3 See HL Standing Orders (Private Business) (1991) no 110(1); HC Standing Orders (Private Business) (1991) no 127(1).

4 See HL Standing Orders (Private Business) (1991) no 110(2); HC Standing Orders (Private Business) (1991) no 127(2).

5 See PARA 887 ante.

6 HL Standing Orders (Private Business) (1991) no 122; HC Standing Orders (Private Business) (1991) no 134.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(C) Procedure in Committees/895. Appearances before an opposed bill committee.

895. Appearances before an opposed bill committee.

Before any party may be heard by an opposed bill committee, he or his agent must formally enter an appearance by handing a completed certificate of appearance to the clerk of the committee. The name of the agent and of the counsel who appear for each party must be shown on the certificate. The first proceeding of the committee, when duly constituted, is to call in the parties. If no petitioners appear against the bill, a Lords committee must report accordingly to the House and the bill is referred to an unopposed bill committee to be dealt with as though originally unopposed¹. A Commons committee must refer the bill back to the Committee of Selection, which deals with it as if it were an unopposed bill².

1 HL Standing Orders (Private Business) (1991) no 113(a).

2 HC Standing Orders (Private Business) (1991) no 131.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(C) Procedure in Committees/896. Counsel and witnesses.

896. Counsel and witnesses.

When the parties have been called in, counsel are then heard on behalf of the promoters and of petitioners against the bill. Members of the House of Lords may not appear as counsel before parliamentary committees of a legislative character¹, although they may appear in that capacity on an appeal at the bar of the House. Members of the House of Commons are debarred by various resolutions of the House from appearing as counsel before parliamentary committees; nor may members engage, either by themselves or their partners, in the conduct of a private bill². Witnesses on both sides may be called, examined and cross-examined. Witnesses before opposed private bill committees are examined on oath³, although if a witness objects to taking the oath, he may affirm⁴. In either House, if it is found necessary to compel the attendance of a witness, an order of the House must be obtained.

1 See LEGAL PROFESSIONS vol 66 (2009) PARA 1113.

2 8 Commons Journals 646; 85 Commons Journals 107; 113 Commons Journals 247. See further LEGAL PROFESSIONS vol 66 (2009) PARA 1113.

3 Ie by virtue of the Parliamentary Witnesses Oaths Act 1871; and see Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 39.

4 See the Oaths Act 1978 s 5; and CIVIL PROCEDURE vol 11 (2009) PARA 1023.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(5) Private Legislation/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. Committees/(C) Procedure in Committees/897. Conduct of proceedings.

897. Conduct of proceedings.

The promoter of the bill must always 'prove the preamble'; that is to say, satisfy the committee about the general expediency of the bill. Where all or some of the petitions against the bill object to the bill generally, the committee may decide to consider this question first. The committee will therefore start by hearing the case for and against the allegations contained in the preamble and only if it finds the preamble proved will it go on to consider the individual clauses of the bill. This was the usual procedure adopted in the past but in practice it is rarely now followed. It is in any event not suited to cases where none of the petitions object to the bill generally. The usual practice now is for the committee to hear the promoter and the petitioners on all aspects of the bill, including all the individual clauses that are in contention, and then to decide whether the bill should be allowed to proceed and what amendments, if any, should be made to it. If the committee decides that the bill should be allowed to proceed the preamble is then proved formally at the conclusion of the proceedings. This is done by a witness for the promoter stating, on oath, that he has read the preamble to the bill and it is true¹. In the House of Commons if parts of the bill are unopposed the committee goes on to deal with those parts after concluding the proceedings on the opposed parts. In the House of Lords any unopposed parts of the bill are dealt with by an unopposed bill committee². In either House, if a committee refuses to approve the preamble of a bill it reports accordingly to the House, and no further proceedings on the bill may be taken.

All questions to be decided by a committee are decided by a majority of votes cast. If the votes are equal, the chairman of a Commons committee has a second or casting vote; in a Lords committee the chairman has a vote but not a casting vote.

1 In the House of Lords if none of the petitions has objected to the bill generally, formal proof of the preamble is left to be made before an unopposed bill committee on recommitment. As to recommitment see PARA 888 ante.

2 See PARA 888 ante.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(5) Private Legislation/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. Committees/(C) Procedure in Committees/898. Report of the committee.

898. Report of the committee.

In the House of Commons, when the committee has finished considering the bill, it must report the bill, with or without amendment, to the House. Similarly, if the promoters inform the committee that they do not propose to proceed further with their bill, the committee reports accordingly to the House¹.

1 See HC Standing Orders (Private Business) (1991) no 142. There is no corresponding standing order in relation to the House of Lords.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. COMMITTEES/(C) Procedure in Committees/899. Costs.

899. Costs.

If a committee on a private bill¹ of either House or Parliament decides that the preamble is not proved², or inserts any provision, or strikes out or alters any provision already in a bill and reports unanimously that a petitioner against a private bill has been unreasonably and vexatiously subjected to expense in defending his rights against the promoters³ of the bill, it may award costs to the petitioner. The petitioner is entitled to recover from the promoters such costs as the committee may think fit, or the committee itself may decide a sum for costs with the consent of the parties affected⁴. Similarly, if the promoters of a bill have been vexatiously subjected to expense by the opposition of a petitioner, the committee may award costs to the promoters; and the promoters are likewise entitled to recover from the petitioner such portion of the cost of promotion as the committee thinks fit, or a sum determined by the committee with the consent of the parties⁵. No landowner who in good faith at his own sole risk and charge opposes a bill which proposes to take any portion of his land is, however, liable to any costs for opposing the bill⁶. A committee cannot award costs against a person not appearing as a petitioner even if he is the real petitioner⁷.

All costs awarded by a committee are taxed by the taxing officer of the House in which the proceedings take place⁸. An injunction to restrain proceedings being taken upon the taxing officer's certificate of costs awarded by a committee will be refused⁹.

1 'Private bill' extends to and includes any bill for a local and personal Act: Parliamentary Costs Act 1865 s 10.

2 As to 'proving the preamble' see PARA 897 ante.

3 When a bill is not promoted by a company already formed, all persons whose names appear in the bill as promoting it, and the company incorporated by the bill if passed, are deemed to be promoters of the bill for these purposes: Parliamentary Costs Act 1865 s 9.

4 See *ibid* s 1.

5 *Ibid* s 2.

6 *Ibid* s 2 proviso.

7 See *Mallet v Hanley (2)* (1887) 18 QBD 787, CA.

8 Parliamentary Costs Act 1865 s 3. As to the taxing officer's powers see s 4; and PARA 871 ante.

9 See *Hanly and Fisher v Mallet* (1886) 3 TLR 71.

UPDATE

899 Costs

TEXT AND NOTES--Replaced. 1865 Act consolidated in the Parliamentary Costs Act 2006. The following provisions apply where, in proceedings of Parliament on a private bill, a committee of either House (1) decides that the preamble to the bill is not proved, or amends the bill so as to protect a petitioner who opposes it; and (2) unanimously reports that a petitioner who opposes the bill has been unreasonably or vexatiously

exposed to costs in defending rights of his with which the bill proposes to interfere: s 10(1). A petitioner of the kind mentioned in head (2) may recover from the promoter (a) the amount of the petitioner's costs (subject to their assessment under s 12) for defending rights of his of the kind mentioned in head (2); (b) if the committee specifies a portion of those costs, that portion; or (c) if the committee specifies an amount in respect of those costs and the parties affected agree to it, that amount: s 10(2). The committee must specify in its report the portion or amount of costs recoverable, who must pay that portion or amount, and who may recover it: s 10(3). 'Promoter' means, in the case of a private bill not promoted by a company any person named in the bill as a promoter of it, and any company which would, if the provisions of the bill were in force, be incorporated as a result: s 18. The following provisions apply where, in proceedings of Parliament on a private bill, a committee of either House decides that the preamble to the Bill is proved, and unanimously reports that the promoter has been vexatiously exposed to costs as a result of opposition to the bill by one or more petitioners: s 9(1). The promoter may recover from the petitioner (or, where there is more than one, those specified by the committee) such portion as the committee specifies of the promoter's costs of promoting the bill (subject to their assessment under s 12), or, if the committee specifies an amount in respect of those costs and the parties affected agree to it, that amount: s 9(2). The committee must specify in its report the portion or amount of costs recoverable, who must pay that portion or amount, and who may recover it: s 9(3). A landowner who at his own risk and cost opposes a private bill which proposes the acquisition of any part of his property is not liable under this provision for any costs in respect of his opposition: s 9(4). For these purposes and for the purposes of s 10, a committee is to be regarded as reporting unanimously if its report is made by every member of it present: s 9(5). As to the taxation of vexatious costs, see ss 11, 12.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(5) Private Legislation/ (vii) Proceedings in Both Houses of Parliament on Private Bills/E. Committees/(C) Procedure in Committees/900. Minutes of proceedings and minutes of evidence.

900. Minutes of proceedings and minutes of evidence.

The clerk of the committee keeps the minutes of the proceedings of the committee and ensures that all the amendments made to a bill by the committee are inserted in a copy of the bill known as the 'Committee Bill'. A verbatim transcript of the evidence is taken down and duplicated for purposes of circulation and record¹. The expense of duplication is borne by the parties².

1 HL Standing Orders (Private Business) (1991) no 110(3); HC Standing Orders (Private Business) (1991) no 131A. The Chairman of Committees of the House of Lords or, as the case may be, the Chairman of Ways and Means in the House of Commons may authorise the evidence to be printed, on an application made to him by the promoters not less than six days before the first meeting of the committee: HL Standing Orders (Private Business) (1991) no 110(3) proviso; HC Standing Orders (Private Business) (1991) no 131A proviso. This power has not been exercised in recent years. As to the Chairman of Committees see Parliament vol 78 (2010) para 852; and as to the Chairman of Ways and Means see Parliament vol 78 (2010) para 940.

2 HL Standing Orders (Private Business) (1991) no 110(3); HC Standing Orders (Private Business) (1991) no 131A.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/F. REPORT AND THIRD READING/901. Procedure in the House of Lords subsequent to the committee stage.

F. REPORT AND THIRD READING

901. Procedure in the House of Lords subsequent to the committee stage.

In the House of Lords there is in practice no report stage in the case of a private bill, whether or not it has been amended in committee. The report of the committee is made merely by means of an entry in the minutes of proceedings of the House and the next stage is third reading¹. Notice is given in the minutes of proceedings of the day on which the third reading is to be taken. A copy of any bill which has been amended in committee must be deposited at offices at which it was deposited previously², and proof of compliance with this requirement is given by means of a certificate deposited in the office of the Clerk of the Parliaments³.

A bill may be amended further on third reading, but no amendments may be moved at this stage unless they have been first submitted to the Chairman of Committees and copies deposited in the office of the Clerk of the Parliaments one clear day at least before the bill is to be read a third time⁴. The consent of Her Majesty or of the Prince of Wales, as the case may be, to any private bill which affects Crown land or land belonging to the Duchy of Cornwall must be signified before the bill may be read the third time.

1 If the bill is reported from a select committee it will first, unless the Chairman of Committees otherwise directs, be recommitted to an unopposed bill committee (see PARA 888 ante); and any bill may be recommitted by the House of Lords to a committee of the whole House on a motion made by the Chairman of Committees: see HL Standing Orders (Private Business) (1991) no 94. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852.

2 See under ibid no 39 or no 194 (see PARAS 856 ante, 934 post): no 147.

3 See ibid no 147. As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855.

4 See ibid no 148.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/F. REPORT AND THIRD READING/902. Procedure on report of a bill in the House of Commons.

902. Procedure on report of a bill in the House of Commons.

In the House of Commons, when a private bill is reported from a committee without amendment, it is ordered to be read the third time. If amended by a committee, it is ordered to lie upon the table, and at least three clear days must elapse before the House may consider the bill¹. Every bill which has been amended by a committee must be reprinted at the expense of the promoters, and copies of the reprinted bill must be delivered to the Vote Office for the use of members at least three clear days before the consideration of the bill². Copies are also delivered to the Chairman of Ways and Means and the counsel to the Speaker³, in order that the House may be informed if the reprinted bill does not conform with the requirements of the standing orders. Copies must also be delivered to any government offices at which a copy of the bill had previously⁴ to be deposited⁵.

- 1 See HC Standing Orders (Private Business) (1991) no 181.
- 2 See *ibid* no 179.
- 3 See *ibid* no 86.
- 4 *Ie* under *ibid*, nos 39, 40: see PARA 856 *ante*.
- 5 See *ibid* no 180.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/F. REPORT AND THIRD READING/903. Consideration of a bill in the House of Commons.

903. Consideration of a bill in the House of Commons.

Amendments of substance may be moved on consideration of a private bill in the House of Commons¹, although one clear day's notice of amendments proposed by promoters must be given².

- 1 On consideration or third reading, motions are sometimes made to recommit a private bill to the committee which has already considered it or to a committee of the whole House.
- 2 See *ibid* no 204.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/F. REPORT AND THIRD READING/904. Third reading in the House of Commons.

904. Third reading in the House of Commons.

When a private bill has been considered in the House of Commons, it is ordered to be read the third time. At least one clear day's notice of third reading must be given by the agent for the bill to the clerks in the Private Bill Office¹. Verbal amendments only may be made². The consent of Her Majesty or the Prince of Wales is signified to bills affecting their land. The House approves the bill, with all the alterations made since second reading, before it is passed and sent up, or returned, to the House of Lords.

- 1 See HC Standing Orders (Private Business) (1991) no 205. The House may proceed directly to the third reading of a bill, once amendments offered on consideration or further consideration have been disposed of: see no 204A.
- 2 *Ibid* no 184.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses

of Parliament on Private Bills/F. REPORT AND THIRD READING/905. Procedure in the second House.

905. Procedure in the second House.

When a private bill has passed through all its stages in one House of Parliament, it is sent to the other House for its agreement. If amendments are made, the bill is returned, as amended, to the House in which it originated. In that event, copies of amendments made in the second House to bills originating in the first House, and any amendments proposed to be moved by the promoters to such amendments, must be laid before the Chairman of Committees or the Chairman of Ways and Means and the counsel to the Speaker, as the case may be, before 2 pm on the day previous to that on which the amendments are to be considered by the first House¹. If the amendments are agreed to, the bill is ready to receive the royal assent².

1 See HL Standing Orders (Private Business) (1991) no 150; HC Standing Orders (Private Business) (1991) no 88. In the Lords it is extremely rare for Commons amendments to a private bill originating in the Lords to be considered on the floor of the House. The usual practice in the Lords is for Commons amendments, after scrutiny by the counsel to the Chairman of Committees, to be shown as considered and agreed to by the House simply by an entry in the minutes of proceedings of the House.

As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852; as to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940; and as to the Speaker see PARLIAMENT vol 78 (2010) PARA 931 et seq.

2 As to the royal assent see PARAS 833-835 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (vii) Proceedings in Both Houses of Parliament on Private Bills/F. REPORT AND THIRD READING/906. Preparation of proof of Act.

906. Preparation of proof of Act.

When a private bill is ready to receive the royal assent, a correct, signed copy of the bill is supplied by the agents for the bill to the office of the Clerk of the Parliaments¹. From this copy a proof of the Act is prepared which is carefully compared with the House copy of the bill. Two copies of every private Act are printed on paper of durable quality. One of these copies is signed by the Clerk of the Parliaments and is preserved in the Victoria Tower, the other is preserved in the Public Record Office².

1 As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855.

2 As to the Public Record Office see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 838.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(viii) Personal Bills/907. Petitions for personal bills presented to the House of Lords.

(viii) Personal Bills

907. Petitions for personal bills presented to the House of Lords.

A private bill may relate to the personal affairs of an individual, though such bills are now rare¹. It is customary for petitions for such bills to be presented to the House of Lords². Standing orders of that House provide that the promoters of any such bill must present a signed petition (to which a printed copy of the proposed bill must be annexed)³ signed by one or more of the parties principally concerned in the consequences of the bill and praying for the leave of the House to introduce the bill⁴. A petition for such a bill may be deposited at any time during the session. It is considered by the Chairman of Committees who may certify that the proposed bill is of such a nature that the standing orders relating to ordinary private bills are not applicable⁵; and when a bill so certified goes to the House of Commons, the Chairman of Ways and Means may report in the same sense as the certificate given by the Chairman of Committees⁶. Private bills so certified and reported are termed personal bills⁷.

1 The last personal bill enacted before the date at which this volume states the law was in 1987 and only six such bills were enacted between 1977 and 1997. All of these were marriage enabling bills, ie bills to authorise the marriage of two persons within the prohibited degrees of affinity. The scope for bills of that kind was greatly reduced by the passing of the Marriage (Prohibited Degrees of Relationship) Act 1986. See also STATUTES vol 44(1) (Reissue) PARA 1214.

2 See 208 Lords Journals 221 (James Hugh Maxwell (Naturalisation) Bill). There appears no constitutional reason why a personal bill should not be solicited in the House of Commons. It is, however, implicit in the standing orders of the two Houses that if such a bill is to be treated as a personal bill within the meaning of the standing orders (and accordingly to have the dispensation from standing orders that is enjoyed by such bills) it must be introduced in the Lords: see HL Standing Orders (Private Business) (1991) no 3(2); HC Standing Orders (Private Business) (1991) no 191A(2), the latter of which applies only to bills brought from the Lords (see no 191A(1)).

3 See HL Standing Orders (Private Business) (1991) no 152.

4 Ibid no 153.

5 See ibid no 3(2). As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852.

6 HC Standing Orders (Private Business) (1991) no 191A(1). See PARA 911 post. As to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940.

7 HL Standing Orders (Private Business) (1991) no 151(1); HC Standing Orders (Private Business) (1991) no 191A(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(viii) Personal Bills/908. Reference to the Personal Bills Committee.

908. Reference to the Personal Bills Committee.

Every petition for a personal bill is referred to the Personal Bills Committee¹; and the bill may not be introduced and read a first time until a report from the committee on the petition has been made to the House of Lords². The committee, which is appointed at the beginning of each session, consists of the Chairman of Committees and six other lords, of whom two are usually Lords of Appeal. The quorum of the committee is three³.

1 HL Standing Orders (Private Business) (1991) no 154.

2 Ibid no 156.

3 Ibid no 154.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(viii) Personal Bills/909. Proceedings before the Personal Bills Committee.

909. Proceedings before the Personal Bills Committee.

The Personal Bills Committee¹ has before it the petition for the bill together with the draft bill, which forms part of the petition, and in most cases a statement by the promoters in support of their application for the bill and any other relevant documents. The promoters usually appear by counsel, but may be heard by their parliamentary agent or in person. The committee is required to report to the House (1) whether the objects of the bill are proper to be enacted by a personal bill; and (2) whether the provisions of the bill are proper for carrying its purposes into effect, and what amendments, if any, are required therein². If the committee reports that the objects of the bill are proper to be enacted by a personal bill, the Chairman of Committees signs a copy of the bill in the form approved by the committee³ and the bill, in its approved form, can then be introduced and read a first time⁴. If the committee reports that the objects of the bill are not proper to be enacted by a personal bill, the bill does not get a first reading and no further proceedings may be taken on it⁵.

1 See PARA 908 ante.

2 See HL Standing Orders (Private Business) (1991) no 154.

3 Ibid no 154. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852.

4 See HL Standing Orders (Private Business) (1991) no 156. As to personal bills affecting private interests in Scotland see further no 155; and as to personal bills affecting estates etc see nos 162, 164-168, 170-173.

5 For examples of reports in this sense in recent years see the reports on the petitions for: G Jackson Bill (HL 84 (1981-82)); Arthur Henry Booth Bill (HL 276 (1983-84)); and Bard Scott Crawford (Naturalisation) Bill (HL Paper 50 (1991-92)).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(viii) Personal Bills/910. Further stages in the House of Lords.

910. Further stages in the House of Lords.

A personal bill is presented to the House of Lords in the form approved by the Personal Bills Committee and is read a first time¹. Thereafter, proceedings on a personal bill are the same as on an ordinary private bill², except that a special procedure now applies in the Lords to marriage enabling bills³. This procedure⁴ is designed to ensure that the case for any such bill is examined with particular care whilst at the same time avoiding the public airing of personal details. Under it, the bill is granted a second reading without debate but instead of being committed to an unopposed bill committee it is committed to a select committee consisting of the Chairman of Committees, a bishop and two other lords.

1 See PARA 909 ante.

2 See HL Standing Orders (Private Business) (1991) no 174, applying nos 1-3 and 69-150, subject to any directions by the Chairman of Committees. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852.

3 All personal bills enacted between 1977 and 1997 fell into this category: see PARA 907 note 1 ante.

4 This procedure was recommended in the *Second Report from the Select Committee of the House of Lords on Procedure of the House* (HL 152 (1985-86)).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(viii) Personal Bills/911. Procedure in the House of Commons.

911. Procedure in the House of Commons.

In the House of Commons, when a personal bill is brought from the House of Lords, it is read the first time and referred, like other private bills, to the Examiners of Petitions for Private Bills¹. However, if the Chairman of Ways and Means reports that the bill relates to the estate, property, status or style, or otherwise to the personal affairs, of an individual and is, in his opinion, of such a nature that the standing orders relating to notices, consents and deposited documents² should not apply to it, the order referring the bill to the examiners is discharged and the bill ordered to be read a second time³. When the bill has been read a second time, it is committed, and proceeds thereafter as an ordinary private bill. Amendments are sometimes inserted in the House of Commons which necessitate the giving of further consents. In that event, the necessary consents are taken when the bill is returned to the Lords⁴.

1 See PARA 859 et seq ante.

2 Ie HC Standing Orders (Private Business) (1991) nos 4-61, 65-68 (see PARAS 853-858 ante): no 191A(1).

3 Ibid no 191A(1). As to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940.

4 See 126 Lords Journals 287 (Walker's Estate Bill); 189 Lords Journals 285-286 (Arundel Estate Bill).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/912. Legislation by order.

(ix) Special Procedure Orders

912. Legislation by order.

Orders subject to special parliamentary procedure were introduced by the Statutory Orders (Special Procedure) Act 1945¹. They can be regarded as a form of legislation comparable to the old provisional order procedure, though only in special circumstances are special procedure orders required to be confirmed by an Act of Parliament². The object of making provision for legislating by means of such a procedure is to reduce the number of private bills which come before both Houses of Parliament and to lessen the expense to promoters. These purposes are achieved by enabling government departments to conduct the preliminary proceedings on provisional or special procedure orders, including, where necessary, a local inquiry, before they are presented to Parliament.

1 The Statutory Orders (Special Procedure) Act 1945 was amended by the Statutory Orders (Special Procedure) Act 1965.

2 See PARA 926 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/913. Supersession of provisional order procedure.

913. Supersession of provisional order procedure.

Proceeding by special procedure order¹ has superseded the old procedure of obtaining a provisional order which requires confirmation in an Act of Parliament. Powers to make provisional orders were conferred by many Acts passed before the Statutory Orders (Special Procedure) Act 1945. Most of such powers were converted into powers to make orders subject to special parliamentary procedure². A few powers to make provisional orders remain on the statute book but, with the exception of the power to make orders under the Private Legislation Procedure (Scotland) Act 1936³ it seems unlikely that any such powers will again be exercised⁴.

1 le under the Statutory Orders (Special Procedure) Act 1945: see PARA 914 post.

2 See PARA 914 post.

3 For the procedure under this Act see PARA 928 post.

4 The Local Government Act 1972 has two such powers: the powers in ss 254(1) and 262(8), both being powers to amend local legislation. These powers are made subject to provisional order procedure where, in either case, the power is used to extend the area for which a local statutory provision is in force: see ss 254(8), 262(10) respectively. The former power does not appear to have been exercised at all so as to attract provisional order procedure and the latter appears to have been so exercised only once (see the Royal County of Berkshire (Public Entertainment) Provisional Order Confirmation Act 1976). Given (1) that the purpose of both powers was to enable provision to be made consequential on the local government reorganisation effected by the Local Government Act 1972; (2) the further reorganisation of local government that has since taken place; and (3) the lapse of time since the only provisional order use of either power, it seems unlikely that either power would now be the source of any provisional orders. The comparable provisional order power in the London Government Act 1963 s 87(3) (repealed) appears to have been exercised only once: see the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967; and OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 509. A much older power to amend local legislation appears in the Public Health Act 1875 s 303. This power is exercisable by provisional order and although it became exercisable by special procedure order in 1949 by an order under the Statutory Orders (Special Procedure) Act 1945 s 8(3), it was converted back to provisional order procedure by a later order under that provision: see the Statutory Orders (Special Procedure) (Substitution) Order 1962, SI 1962/409, art 3(a). This power (which was extended by later public health legislation and also by food and drugs legislation) was exercised up to 1971 (see the Ministry of Housing and Local Government Provisional Order Confirmation (Melton Mowbray and Sheffield) Act 1971) but seems now to have fallen into desuetude. Another provisional order power is the power to acquire land under the Military Lands Act 1892 s 1 (as amended) where the acquisition is compulsory (see s 2(4)) but the last exercise that was subject to provisional order procedure appears to have been as long ago as 1912 (see the Military Lands Provisional Order Confirmation Act 1912).

UPDATE

913 Supersession of provisional order procedure

NOTE 4--Military Lands Provisional Order Confirmation Act 1912 repealed: Statute Law (Repeals) Act 2008.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/914. Orders to which special parliamentary procedure applies.

914. Orders to which special parliamentary procedure applies.

Where, in any Act passed after 20 December 1945, power to make or confirm orders¹ is conferred on any authority and provision is made that the orders should be subject to special parliamentary procedure, the provisions of the Statutory Orders (Special Procedure) Act 1945 apply to those orders². There are a number of Acts containing such provisions³. Power was conferred to make Orders in Council extending special parliamentary procedure to orders made under enactments passed before 1 June 1946⁴ in substitution for provisional order procedure⁵. In the exercise of this power, special parliamentary procedure has been substituted for provisional order procedure in the case of orders under most of the enactments in relation to which provisional order procedure formerly applied, and the enactments in question have been modified accordingly⁶.

1 'Order' includes a scheme, certificate or byelaws: Statutory Orders (Special Procedure) Act 1945 s 11(1). An order to which the 1945 Act applies is of no effect until it has been laid before Parliament by the responsible minister and has been brought into operation in accordance with the provisions of the Act: ss 1(2), 11(1); and see PARA 925 post.

2 Ibid s 1(1). The procedure was applied in terms to orders made or confirmed under certain Acts passed in 1944 and 1945: see s 8(1), (2), Sch 2 (repealed). So far as still in operation those provisions now appear in later consolidating Acts: see eg the New Towns Act 1981 ss 27(3), 29(2), 30(4); the Town and Country Planning Act 1990 ss 276(3), 277(5).

3 A list of such Acts is printed in the official Index to the Statutes in Force, under the heading 'Statutory and other Instruments'. See also 41 Halsbury's Statutes (4th Edn) (1995 Reissue) p 782; and see eg the Land Drainage Act 1991 ss 3(6), 4(4), 5(3), 32(6), 35(5), Sch 3 para 5; and WATER AND WATERWAYS vol 101 (2009) PARA 578 et seq. Tables of statutory orders subject to the Statutory Orders (Special Procedure) Act 1945 are printed with the annual table of private [local and personal] Acts.

4 Ie the date of the commencement of the Statutory Orders (Special Procedure) Act 1945: s 12(2) (repealed).

5 See ibid s 8(3). An Order in Council so made may be revoked or varied by a subsequent Order: s 8(4).

6 See the Statutory Orders (Special Procedure) (Substitution) Order 1949, SI 1949/2393 (amended by SI 1962/409; and by the Sea Fish Industry Act 1962 s 37(1)(c), Sch 4 Pt II (repealed)); the Statutory Orders (Special Procedure) (Substitution) Order 1962, SI 1962/2791. As to enactments which still provide for provisional order procedure see PARA 913 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/915. Preliminary proceedings.

915. Preliminary proceedings.

No special procedure order¹ may be laid before Parliament until the requirements of the empowering enactment² with respect to the publication or service of notices, the consideration of objections and the holding of inquiries or other proceedings preliminary to the making or confirmation of the order have been complied with³.

Where no requirements are imposed by the empowering enactment, certain specified requirements must be complied with⁴. In the first place, before the order is made or confirmed,

notice must be given in the London Gazette and, if the order is to relate to a particular area, in at least one newspaper circulating in that area, as follows:

- 11 (1) in the case of an order to be made on the application of any person, notice of the purport of the application must be given by the applicant⁵;
- 12 (2) in the case of an order to be confirmed on the application of any person, notice of the order as submitted for confirmation must be given by the applicant⁶;
- 13 (3) in the case of an order to be made otherwise than on the application of any person, notice of the order as proposed to be made must be given by the authority empowered to make it⁷.

A notice is sufficient notice of an order if it sets out the purport of the order and specifies a place where copies of the order may be inspected free of charge at all reasonable hours⁸. Every notice must specify the time within which and the manner in which objections may be made to the application or order as the case may be, the time allowed being not less than 28 days⁹. If any objection is duly made and is not withdrawn, the authority empowered to make or confirm the order must take the objection into consideration, and must cause a local inquiry to be held, unless it is satisfied that in the special circumstances of the case an inquiry is unnecessary¹⁰.

Notice of the inquiry must be given in such manner as that authority may direct, and all persons interested may attend and make objections¹¹. For the purposes of any such local inquiry, the person appointed to hold it may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath and administer oaths for that purpose¹². Where an authority which is empowered to make an order causes such an inquiry to be held, that authority's costs are to be paid by a local authority or other party to the inquiry, and are recoverable summarily as a civil debt¹³.

1 For the meaning of 'order' see PARA 914 note 1 ante.

2 'Empowering enactment', in relation to any order, includes any enactment other than the Statutory Orders (Special Procedure) Act 1945 which has the effect of requiring the publication or service of notices, the consideration of objections or the holding of inquiries or other proceedings preliminary to the making or confirmation of the order: s 2(3). For the requirements which must be observed in the case of orders made for local government purposes see the Local Government Act 1972 s 240(3); and LOCAL GOVERNMENT vol 69 (2009) PARA 100.

3 Statutory Orders (Special Procedure) Act 1945 s 2(1). See *R v Minister of Agriculture, Fisheries and Food, ex p Wear Valley District Council* (1988) Times, 26 March, DC (meaning of 'person affected'; 'affected' to be given ordinary unrestricted meaning).

4 See the Statutory Orders (Special Procedure) Act 1945 s 2(1), Sch 1; and the text and notes 5-12 infra.

5 Ibid Sch 1 para 1(a). 'The applicant', in relation to an order to which the Statutory Orders (Special Procedure) Act 1945 applies, means the person on whose application the order is made or confirmed: s 11(1).

6 Ibid Sch 1 para 1(b).

7 Ibid Sch 1 para 1(c).

8 Ibid Sch 1 para 5.

9 Ibid Sch 1 para 2.

10 Ibid Sch 1 para 3.

11 Ibid Sch 1 para 4.

12 See the Local Government Act 1972 s 250(2) (amended by the Statute Law (Repeals) Act 1989), which is applied by the Statutory Orders (Special Procedure) Act 1945 Sch 1 para 4 (amended by virtue of the Local Government Act 1972 s 272(2)). Every person who refuses or deliberately fails to attend in obedience to such a summons, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or liable to be required to produce for these purposes is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months, or to both: see the Local Government Act 1972 s 250(3) (as so applied; amended by virtue of the Criminal Justice Act 1982 ss 38, 46). No person is, however, required to attend to give evidence or to produce any such documents, unless the necessary expenses of his attendance are paid or tendered to him, and the person holding the inquiry is not empowered by these provisions to require the production of the title, or of any instrument relating to the title, of any land not belonging to a local authority: see the Local Government Act 1972 s 250(2) proviso (as so applied). The 'standard scale' means the standard scale of maximum fines for summary offences as set out in the Criminal Justice Act 1982 s 37(2) (as substituted): Interpretation Act 1978 s 5, Sch 1 (amended by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58(a)). See SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142. At the date at which this volume states the law, the standard scale is as follows: level 1, £200; level 2, £500; level 3, £1,000; level 4, £2,500; level 5, £5,000: Criminal Justice Act 1982 s 37(2) (substituted by the Criminal Justice Act 1991 s 17(1)). As to the determination of the amount of the fine actually imposed, as distinct from the level on the standard scale which it may not exceed, see the Criminal Justice Act 1991 s 18 (substituted by the Criminal Justice Act 1993 s 65); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 144.

13 See the Local Government Act 1972 s 250(4) (as applied (see note 12 *supra*); amended by the Housing and Planning Act 1986 s 49(2), Sch 12 Pt III). As to costs at the inquiry see further the Local Government Act 1972 s 250(5) (as so applied); and see generally LOCAL GOVERNMENT vol 69 (2009) PARA 105.

UPDATE

915 Preliminary proceedings

NOTE 12--1991 Act s 18, consolidated in the Powers of Criminal Courts (Sentencing) Act 2000 s 128, repealed: Criminal Justice Act 2003 Sch 37 Pt 7. See now s 162.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/916. Laying the order before Parliament.

916. Laying the order before Parliament.

When any preliminary requirements relating to provisional orders¹ have been complied with, notice of the intention of the minister² concerned to lay the order before Parliament must be published in the London Gazette not less than three days before the order is so laid³. When laid, the order must be accompanied by a certificate from the minister concerned specifying the preliminary requirements which relate to the order and certifying that they have been complied with; if a local inquiry has been dispensed with, the certificate must contain a statement to that effect⁴. Copies of the order and certificate must be deposited in the office of the Clerk of the Parliaments in the House of Lords⁵, and the Private Bill Office and the Vote Office in the House of Commons⁶, and copies of the certificate and of the order, unless it is a statutory instrument of which copies are required to be printed and sold⁷, must be made available to any person on application to the minister and on payment⁸.

If under a special procedure order it is proposed to authorise the compulsory acquisition or use of land, or if the order relates to any works or any area of land or water, and the works or area are described by reference to a map or plan, a copy of the map or plan must be laid with the order in the House of Lords and deposited in the Private Bill Office in the House of Commons on the day on which the order is laid before the House⁹. The name and address of the applicant, if any, must be indorsed on any order laid before Parliament and all copies of the order deposited and made available¹⁰.

1 See PARA 915 ante.

2 'The minister', in relation to a provisional order, means the Minister of the Crown responsible for laying the order before Parliament: Statutory Orders (Special Procedure) Act 1945 s 11(1). As to the meaning of 'laying before Parliament' see PARA 941 post.

3 Ibid s 2(1).

4 Ibid s 2(2).

5 HL Standing Orders (Private Business) (1991) no 205(1)(a). As to the Clerk of the Parliaments see PARA 551 ante.

6 HC Standing Orders (Private Business) (1991) no 239(1)(a).

7 Ie by the Statutory Instruments Act 1946 s 2 (see STATUTES vol 44(1) (Reissue) PARA 1506): HL Standing Orders (Private Business) (1991) no 205(1) proviso; HC Standing Orders (Private Business) (1991) no 239(1) proviso.

8 HL Standing Orders (Private Business) (1991) no 205(1)(b); HC Standing Orders (Private Business) (1991) no 239(1)(b). The things required to be done under these standing orders must be done on the day on which the special procedure order is laid before the House of Lords or the House of Commons as the case may be: HL Standing Orders (Private Business) (1991) no 205(1); HC Standing Orders (Private Business) (1991) no 239(1).

Without prejudice to any other powers exercisable in that behalf by the House of Lords and the House of Commons respectively, standing orders may be made for any purpose connected with the provisions of the Statutory Orders (Special Procedure) Act 1945, and in particular:

- 1 (1) for regulating the manner in which petitions against an order to which that Act applies are to be framed and presented, and for extending the period of 21 days prescribed thereby in relation to the presentation of such petitions in any case where that period expires on a day on which the House is not sitting or, in the case of the House of Lords, is sitting for judicial business only (s 9(a));
- 2 (2) for enabling the functions of the Lords Chairman of Committees and of the Chairman of Ways and Means thereunder to be performed by any deputy appointed in accordance with standing orders (s 9(b));
- 3 (3) for regulating the proceedings of the chairmen in connection with the examination of petitions under the Act (s 9(c));
- 4 (4) for prescribing the cases in which a petitioner against an order to which the Act applies is treated for the statutory purposes as having locus standi, and for enabling the chairmen to determine questions of locus standi in connection with the examination of petitions (s 9(d));
- 5 (5) for prescribing the constitution of any joint committee of both Houses which may be appointed for the statutory purposes (s 9(e));
- 6 (6) for regulating the proceedings of any such committee upon the consideration of any order or bill referred to it, and in particular for enabling the committee, if satisfied that an amendment prayed for by any petition which is referred to the committee may affect the interest of persons not represented before it, to afford to any such person an opportunity to be so represented;
- 7 (7) for regulating the procedure to be followed in connection with any bill introduced under s 6 (see PARA 926 post) (s 9(g)); and
- 8 (8) for prescribing anything required to be prescribed under the Act (s 9(h)).

The standing orders made in pursuance of this power are HL Standing Orders (Private Business) (1991) nos 203-211, 214, 215; HC Standing Orders (Private Business) (1991) nos 237-245, 247-248A.

9 HL Standing Orders (Private Business) (1991) no 205A; HC Standing Orders (Private Business) (1991) no 239A.

10 HL Standing Orders (Private Business) (1991) no 205(2); HC Standing Orders (Private Business) (1991) no 239(2).

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/917. Petitions and memorials.

917. Petitions and memorials.

Petitions against a special procedure order may be presented to either House of Parliament, normally within 21 days beginning with the day on which the order was laid, or, if it was laid on different days before each House, beginning with the later of the two days¹. The two kinds of petition provided for are (1) a petition for amendment, praying that specified amendments should be made to the order²; and (2) a petition of general objection, which prays against the order generally (a prayer which may not be included in a petition for amendment)³. Petitions must be framed in conformity with the rules and orders of the two Houses of Parliament⁴, and are presented by being deposited in the office of the Clerk of the Parliaments or the Private Bill Office of the House of Commons, as the case may be⁵. Not later than the day following the presentation, the petitioner must cause copies to be deposited in the other House and at the office of the minister who laid the order⁶; copies must also be delivered, or sent by registered post, to the applicant, if any, or each applicant, if more than one, at the address indorsed on the order⁷; and copies must be made available, not later than three days from the day when the petition was presented, to any person on application to the petitioner or his agent at the address indorsed on the petition and on payment⁸.

Within seven days beginning with the day of the presentation of a petition, the minister or any applicant may deposit in the office of the Clerk of the Parliaments or the Private Bill Office of the House of Commons, as the case may be, a memorial objecting to the petition being certified as proper to be received; or, if the petition has been presented as a petition for amendment, the memorialist may object that it is a petition of general objection⁹.

1 See the Statutory Orders (Special Procedure) Act 1945 s 3(1) (amended by the Statutory Orders (Special Procedure) Act 1965 s 1(1), (2)). If the period of 21 days expires when Parliament is dissolved or prorogued, or during any long adjournment, it is extended so as to expire with the next sitting day: HL Standing Orders (Private Business) (1991) no 201A(1)(d), (2), (3); HC Standing Orders (Private Business) (1991) no 247(1), (2). For this purpose, 'long adjournment' means, in the Lords, any period of ten or more consecutive days on which the House does not sit for public business (HL Standing Orders (Private Business) (1991) nos 1, 201A(2)); and in the Commons, any period when the House is adjourned for more than four days (HC Standing Orders (Private Business) (1991) no 247(1)). In practice the two periods amount to the same thing.

2 See the Statutory Orders (Special Procedure) Act 1945 s 3(2)(a).

3 See *ibid* s 3(2)(b).

4 As to petitions presented in the House of Lords see HL Standing Orders (Private Business) (1991) no 206(1). As to those to the House of Commons see HC Standing Orders (Private Business) (1991) nos 192A, 240(1). There must be indorsed on every petition (1) the title of the order against which it is presented; (2) a statement whether it is a petition for amendment or a petition of general objection; and (3) the name and address of the party or agent or, in the Commons, the member, depositing it: HL Standing Orders (Private Business) (1991) no 206(2); HC Standing Orders (Private Business) (1991) no 240(2).

5 HL Standing Orders (Private Business) (1991) no 206(1); HC Standing Orders (Private Business) (1991) no 240(1). As to the Clerk of the Parliaments see PARA 551 *ante*.

6 HL Standing Orders (Private Business) (1991) no 206(3)(a); HC Standing Orders (Private Business) (1991) no 240(3)(a).

7 HL Standing Orders (Private Business) (1991) no 206(3)(b); HC Standing Orders (Private Business) (1991) no 240(3)(b).

8 HL Standing Orders (Private Business) (1991) no 206(3)(c); HC Standing Orders (Private Business) (1991) no 240(3)(c). Time-limits may be extended in the case of the dissolution or prorogation of Parliament or a long adjournment: HL Standing Orders (Private Business) (1991) no 201A(1)(d), (2); HC Standing Orders (Private Business) (1991) no 247(1).

9 HL Standing Orders (Private Business) (1991) no 207(1); HC Standing Orders (Private Business) (1991) no 241(1). The time-limits may be extended in the case of the dissolution or prorogation of Parliament or a long adjournment: HL Standing Orders (Private Business) (1991) no 201A(1)(d), (2); HC Standing Orders (Private Business) (1991) no 247(1). On the day on which a memorial is deposited the memorialist must cause a copy to be deposited in the other House and in the office of the Chairman of Ways and Means and a copy to be delivered or dispatched by registered post to the petitioner or his agent at the address indorsed on the petition: HL Standing Orders (Private Business) (1991) no 207(2); HC Standing Orders (Private Business) (1991) no 241(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/918. Report by the chairmen.

918. Report by the chairmen.

If a petition is duly presented against a special procedure order¹, the petition stands referred for examination to the Chairman of Committees of the House of Lords and the Chairman of Ways and Means ('the chairmen')². As soon as practicable after the expiration of the period within which petitions may be laid before Parliament³, the chairmen must take into consideration all petitions referred to them, and if satisfied that the statutory provisions⁴ and standing orders have been complied with, they must certify that the petition is proper to be received and is a petition for amendment or a petition of general objection, as the case may be⁵. If a memorial has been duly deposited in the office of the Clerk of the Parliaments or the Private Bill Office of the House of Commons, the chairmen must give notice in the appropriate office of the time and place at which they will consider the petition and memorial⁶.

Where in the opinion of the chairmen a petition presented as a petition for amendment involves amendments of the order which would constitute a negative of the main purpose of the order, they must, if they certify that the petition is proper to be received, certify it as a petition of general objection, unless the petitioner satisfies them that some only of the amendments involved would constitute such a negative; if so satisfied, the chairmen may direct the deletion of so much of the petition as requires such amendments and certify the remainder as a petition for amendment⁷. The chairmen must not certify that a petition is proper to be received if the order to which it relates is made under the Transport and Works Act 1992⁸ and either (1) the petition is a petition of general objection and the order relates to proposals which have been approved by each House of Parliament⁹; or (2) the petition is a petition for amendment and any of the amendments asked for would in the opinion of the chairmen be inconsistent with such proposals¹⁰.

If no memorial is deposited¹¹, but the chairmen are not satisfied that a petition should be certified as proper to be received, or, if it is presented as a petition for amendment, are not satisfied that it is such a petition, they must give notice in the office of the Clerk of the Parliaments and the Private Bill Office of the time and place at which they will further consider the petition¹².

In respect of every special procedure order, the chairmen must report whether any petitions have been presented against it, and, if so, what petitions, if any, have been certified as proper to be received and as petitions for amendment and general objection respectively, and, subject to standing orders, every such report must be laid before both Houses of Parliament¹³.

Questions of locus standi of petitioners are decided by the two chairmen when they are examining special procedure petitions¹⁴.

- 1 As to the presentation of petitions see PARA 917 ante.
- 2 Statutory Orders (Special Procedure) Act 1945 s 3(1). 'Chairman of Committees' and 'Chairman of Ways and Means' includes any deputy acting in accordance with standing orders: see s 11(1). The functions of the Chairman of Committees in this respect may be performed by a deputy chairman, and the functions of the Chairman of Ways and Means by a member of the chairmen's panel appointed as his deputy: see HL Standing Orders (Private Business) (1991) no 204; HC Standing Orders (Private Business) (1991) no 238.
- 3 As to laying petitions before Parliament see PARA 917 ante.
- 4 In the provisions of the Statutory Orders (Special Procedure) Act 1945.
- 5 Ibid s 3(3) (amended by the Statutory Orders (Special Procedure) Act 1965 ss 1(1)-(3), 2(4), Schedule).
- 6 HL Standing Orders (Private Business) (1991) no 208(1); HC Standing Orders (Private Business) (1991) no 242(1).
- 7 Statutory Orders (Special Procedure) Act 1945 s 3(4).
- 8 In the under the Transport and Works Act 1992 ss 1 or 3: see PARA 846 ante; and RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 302; WATER AND WATERWAYS vol 101 (2009) PARA 801; PORTS AND HARBOURS.
- 9 In accordance with ibid s 9 (schemes of national significance): see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 317; WATER AND WATERWAYS vol 101 (2009) PARA 812.
- 10 Statutory Orders (Special Procedure) Act 1945 s 3(4A) (added by the Transport and Works Act 1992 s 12(2)).
- 11 As to the depositing of memorials see PARA 917 ante.
- 12 HL Standing Orders (Private Business) (1991) no 208(2)(a); HC Standing Orders (Private Business) (1991) no 242(2)(a).
- 13 Statutory Orders (Special Procedure) Act 1945 s 3(5).
- 14 See HL Standing Orders (Private Business) (1991) no 208(3); HC Standing Orders (Private Business) (1991) no 242(3).

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/919. Proceedings consequent on the chairmen's report.

919. Proceedings consequent on the chairmen's report.

If within a period of 21 days beginning with the date of the laying of the chairmen's report relating to any special procedure order before either House of Parliament¹, the House resolves that the order be annulled, the order becomes void and no further proceedings may be taken on it, although this is without prejudice to the laying of a new order². If no resolution to annul the order is passed during the period of 21 days previously mentioned, any petitions duly certified by the chairmen as proper to be received stand referred to a joint committee³, although no petition of general objection stands so referred if either House has resolved within that period that the petition should not be so referred⁴.

1 In reckoning the period, no account is taken of time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days: Statutory Orders (Special Procedure) Act 1945 s 4(1) (amended by the Statutory Orders (Special Procedure) Act 1965 ss 1(1), (2), 2(4), Schedule). As to the chairmen's report see PARA 918 ante; and for the meaning of 'order' see PARA 914 note 1 ante.

- 2 Statutory Orders (Special Procedure) Act 1945 s 4(1) (as amended: see note 1 supra).
- 3 Ibid s 4(2).
- 4 Ibid s 4(2) proviso (amended by the Statutory Orders (Special Procedure) Act 1965 s 1(4)).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/920. Counter-petitions.

920. Counter-petitions.

Where the Chairman of Committees in the House of Lords and the Chairman of Ways and Means have reported¹ that any petition has been presented to either House of Parliament and has been certified as a petition for amendment and as proper to be received, within a period of 14 days² beginning with the date on which the report is laid before the House a counter-petition may be presented to the House complaining that the amendment prayed for by the petition will affect the interest of the person presenting the counter-petition, and the counter-petition then stands referred to the joint committee to which the petition stands referred³.

1 See under the Statutory Orders (Special Procedure) Act 1945 s 3(5): see PARA 918 ante.

2 The period may be extended in the case of the dissolution or prorogation of Parliament or a long adjournment: HL Standing Orders (Private Business) (1991) no 201A(1)(d), (2); HC Standing Orders (Private Business) (1991) no 247(1). For the meaning of 'long adjournment' see PARA 917 note 1 ante.

3 HL Standing Orders (Private Business) (1991) no 210(1); HC Standing Orders (Private Business) (1991) no 244(1). As to the reference of petitions to joint committees see PARA 919 ante. A counter-petition must be deposited in the office of the Clerk of the Parliaments or the Private Bill Office of the House of Commons as the case may be: HL Standing Orders (Private Business) (1991) no 210(2); HC Standing Orders (Private Business) (1991) no 244(2). Counter-petitions presented to the House of Commons must be prepared and signed in strict conformity with the rules and orders of the House: see nos 192A, 244(2). There must be indorsed on every counter-petition presented to either House (1) the title of the special procedure order to which it relates; (2) the name and address of the party depositing it; and (3) the name of the party or agent who signed the original petition: HL Standing Orders (Private Business) (1991) no 210(3); HC Standing Orders (Private Business) (1991) no 244(3). Not later than the day following that on which the counter-petition was presented, the counter-petitioner must cause copies of it to be deposited in the appropriate office of the other House, in the office of the Chairman of Ways and Means and at the office of the minister concerned; and must cause further copies to be delivered or dispatched by registered post to the original petitioners or their agent at the address indorsed on the petition, and, if the minister has given notice that he desires his right to be exercised by an applicant specified in the notice (see PARA 923 post), to the applicant at his address indorsed on the special procedure order: HL Standing Orders (Private Business) (1991) no 210(4); HC Standing Orders (Private Business) (1991) no 244(4). The time-limit may be extended in the case of the dissolution or prorogation of Parliament or a long adjournment: HL Standing Orders (Private Business) (1991) no 201A(1)(d), (2); HC Standing Orders (Private Business) (1991) no 247(1). As to the right of audience of a counter-petitioner before a joint committee see PARA 923 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/921. Withdrawal of petitions, counter-petitions and memorials.

921. Withdrawal of petitions, counter-petitions and memorials.

Any petitioner, counter-petitioner or memorialist may withdraw his petition, counter-petition or memorial on a requisition to that effect being deposited in the office of the Clerk of the

Parliaments or the Private Bill Office of the House of Commons, as the case may be, signed by him or the agent who deposited the document in question; and where the document is signed by more than one person, any person signing may so withdraw from it¹.

¹ See HL Standing Orders (Private Business) (1991) no 211; HC Standing Orders (Private Business) (1991) nos 76A, 173, 245. As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/922. Constitution and powers of a joint committee.

922. Constitution and powers of a joint committee.

Where a petition stands referred to a joint committee¹, the committee consists of three members of the House of Lords normally nominated by the Chairman of Committees and three members of the House of Commons nominated by the Committee of Selection². The order stands referred only for the purpose of considering the petition³. The committee is empowered to report the order either without amendment or with such amendments as it thinks expedient to give effect to all, or any part, of a petition and with such consequential amendments, if any, as it thinks proper⁴. In considering a petition of general objection, a committee may report the order with amendments if it thinks effect should be given to the petition, notwithstanding that the petition is one of general objection; but if in the committee's opinion the order ought not to take effect, it must report that the order be not approved⁵. The report of the joint committee, with the minutes of the evidence, is laid before both Houses of Parliament⁶.

¹ See PARA 919 ante.

² HL Standing Orders (Private Business) (1991) nos 95(1), 209(1)(e); HC Standing Orders (Private Business) (1991) no 243(1). Provision is made for a case where a member of the committee is prevented from continuing his attendance: see HL Standing Orders (Private Business) (1991) no 209(4); HC Standing Orders (Private Business) (1991) no 243(4). As to the Chairman of Committee see PARLIAMENT vol 78 (2010) PARA 852; and as to the Committee of Selection see PARLIAMENT vol 78 (2010) PARA 989.

³ Statutory Orders (Special Procedure) Act 1945 s 5(1).

⁴ Ibid s 5(1).

⁵ Ibid s 5(2).

⁶ Ibid s 5(3); HL Standing Orders (Private Business) (1991) no 209(3); HC Standing Orders (Private Business) (1991) no 243(3).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/923. Proceedings in a joint committee.

923. Proceedings in a joint committee.

The course of proceedings in a joint committee is as follows. If required by the committee to do so, the minister briefly explains the order by means of a factual statement, to be agreed with the petitioner and any counter-petitioner. The petitioner is then entitled to be heard in support of his petition. If the committee is of the opinion that he has a case to answer, the minister is

entitled to be heard against the petition. The petitioner is then entitled to reply or, before replying, to call rebutting evidence, with the leave of the committee, on which the minister is entitled to comment. The petitioner and the minister may appear by counsel or agent¹. After giving due notice the minister may transfer his rights to any applicant specified in the notice². If on consideration of a counter-petition³ the joint committee is satisfied that an amendment prayed for by the petition may affect the interests of the counter-petitioner, the committee may allow the counter-petitioner to be heard personally or by his counsel or agent, either before or after the minister or applicant, as the committee may direct⁴.

1 HL Standing Orders (Private Business) (1991) no 209(1); HC Standing Orders (Private Business) (1991) no 243(1).

2 HL Standing Orders (Private Business) (1991) no 209(1) proviso; HC Standing Orders (Private Business) (1991) no 243(1) proviso. Such a notice must be delivered or dispatched by registered post to the petitioner or his agent at the address indorsed on the special procedure order within a period of four days beginning with the day on which the report of the chairmen is laid before Parliament (see PARA 918 ante) or, if the report is so laid on different days, with the later of the two days, and copies of the notice must be deposited in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons within a four-day period: HL Standing Orders (Private Business) (1991) no 209(2); HC Standing Orders (Private Business) (1991) no 243(2). The time limit may be extended in the case of the dissolution or prorogation of Parliament or a long adjournment: HL Standing Orders (Private Business) (1991) no 201A(1)(d), (2); HC Standing Orders (Private Business) (1991) no 247(1). For the meaning of 'long adjournment' see PARA 917 note 1 ante. As to the Clerk of the Parliaments see PARA 551 ante.

3 As to counter-petitions see PARA 920 ante.

4 HL Standing Orders (Private Business) (1991) no 210(5); HC Standing Orders (Private Business) (1991) no 244(5).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/924. Costs and fees.

924. Costs and fees.

The joint committee has the same power to award costs as a private bill committee¹. Any costs so awarded are taxed by the taxing officer of the House of Commons at the request of the minister responsible for the order². The reasonable costs incurred by a local authority³ in applying for, supporting or opposing a special procedure order, or in connection with a preliminary local inquiry, are to such extent as may be sanctioned by the Secretary of State⁴ deemed to be expenses properly incurred by the authority and are paid accordingly, and the local authority may borrow for the purpose of defraying such costs⁵.

The fees to be charged in respect of special procedure orders are laid down in standing orders⁶.

1 Statutory Orders (Special Procedure) Act 1945 s 7(1). A joint committee has the same power to award costs as a select committee has in relation to a provisional order bill under the Parliamentary Costs Act 1865, as applied by the Parliamentary Costs Act 1871 s 2; and the Parliamentary Costs Act 1865 is to apply accordingly subject to any necessary modifications: see the Statutory Orders (Special Procedure) Act 1945 s 7(1). As to the power of a private bill committee to award costs under the Parliamentary Costs Act 1865 see PARA 899 ante.

2 See the Statutory Orders (Special Procedure) Act 1945 s 7(2) (amended by the Statute Law (Repeals) Act 1993), applying with any necessary modifications the House of Commons Costs Taxation Act 1847, the House of Lords Costs Taxation Act 1849, and the House of Commons Costs Taxation Act 1879 s 2; and PARAS 870-871 ante.

3 'Local authority' means (1) a billing authority or a precepting authority as defined in the Local Government Finance Act 1992 s 69; (2) a combined fire authority as defined in the Local Government Finance Act 1988 s 144

(ie such an authority constituted at any time by a combination scheme under the Fire Services Act 1947); (3) a levying body within the meaning of the Local Government Finance Act 1988 s 74 (as amended); and (4) a body as regards which s 75 (as amended) applies: Statutory Orders (Special Procedure) Act 1945 s 11(1) (definition substituted by the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990, SI 1990/776, art 8, Sch 3 para 3; and subsequently amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 7 and the Police and Magistrates' Courts Act 1994 s 93, Sch 9 Pt I). For the purposes of head (1) supra, 'billing authority' means (a) in relation to England, a district council or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly; and (b) in relation to Wales, a county council or county borough council: Local Government Finance Act 1992 s 1(2) (substituted by the Local Government (Wales) Act 1994 s 35(5)). 'Precepting authority' for those purposes means a major precepting authority (ie a county council in England, a police authority established under the Police Act 1996 s 3, a metropolitan county fire and civil defence authority, the London Fire and Civil Defence Authority and the Receiver for the Metropolitan Police District) or local precepting authority (ie the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish or community council, the chairman of a parish meeting and charter trustees): Local Government Finance Act 1992 s 39(1), (2) (s 39(1) amended by the Local Government (Wales) Act 1994 s 35(6); and the Police Act 1996 s 103(1), Sch 7 para 1). See also LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 524 et seq.

4 In law the office of Secretary of State is one and accordingly many modern statutes refer simply to 'the Secretary of State' without reference to a particular department or ministry. In any enactment, 'Secretary of State' means one of Her Majesty's Principal Secretaries of State: see the Interpretation Act 1978 s 5, Sch 1. As to the office of Secretary of State see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 355. As to the transfer of functions from the Minister of Health to the Secretary of State for the Environment (now the Secretary of State for the Environment, Transport and the Regions: see OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 519) see the Secretary of State for the Environment Order 1970, SI 1970/1681, art 2(1), Sch 1.

5 Statutory Orders (Special Procedure) Act 1945 s 7(3) (amended by the Statute Law (Repeals) Act 1993).

6 See HL Standing Orders (Private Business) (1991) no 215, Table of Fees (p 121), Pt IV; HC Standing Orders (Private Business) (1991) Table of Fees (p 126), Pt IV.

UPDATE

924 Costs and fees

NOTE 1--Now the same power as a select committee has in relation to a provisional order bill under the Parliamentary Costs Act 2006 ss 9-12 (as a result of s 15(4), (5)); and ss 9-12 apply accordingly subject to any necessary modifications: 1945 Act s 7(1) (amended by the 2006 Act s 17(3)).

NOTE 2--The 1945 Act s 7(2) now applies with any necessary modifications the Parliamentary Costs Act 2006 ss 2-8, 13 and 14; and, for that purpose, the reference to the Secretary of State in the 2006 Act s 5(3) (which refers to the procedure under which the Secretary of State requests an assessment of costs) is to be read as including a reference to the minister: 1945 Act s 7(2) (further amended by the 2006 Act s 17(4)).

NOTE 3--Now head (2) a fire and rescue authority in Wales constituted by a scheme under the Fire and Rescue Services Act 2004 s 2 or a scheme to which s 4 applies: 1945 Act s 11(1) (amended by the 2004 Act Sch 1 para 10). Such a fire and rescue authority is a major precepting authority under the 1992 Act s 39(1) (amended by the 2004 Act Sch 1 para 82). For 'metropolitan county fire and civil defence authority' read 'metropolitan country fire and rescue authority': Civil Contingencies Act 2004 Sch 2 Pt 1 para 10(2).

NOTES 4, 5--Functions under the 1945 Act s 7(3) transferred to the National Assembly for Wales: see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672. As to the National Assembly for Wales see generally CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 42A et seq.

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(5) Private Legislation/(ix) Special Procedure Orders/925. Operation of orders.

925. Operation of orders.

A special procedure order does not take effect until it has been laid before Parliament by the minister concerned and has been brought into operation in accordance with the Statutory Orders (Special Procedure) Act 1945¹. If neither House has resolved during the period allowed for the purpose² that the order³ be annulled, and no petitions relating to the order stand referred to a joint committee⁴, the order comes into operation on the expiry of the resolution period or on any later day specified in the order⁵. Where an order is reported from a joint committee without amendment, it comes into operation on the date on which the committee's report is laid before both Houses⁶, or any later date specified in the order⁷. If an order is reported by a joint committee with amendments and the responsible minister considers that it should take effect as amended⁸, the order, as amended, is brought into operation on such date as the minister determines by notice given in the prescribed manner⁹.

1 Statutory Orders (Special Procedure) Act 1945 s 1(2).

2 See PARA 919 ante.

3 For the meaning of 'order' see PARA 914 note 1 ante.

4 I.e. under the Statutory Orders (Special Procedure) Act 1945 s 4 (as amended): see PARAS 919, 922-924 ante.

5 Ibid s 4(3).

6 I.e. in accordance with ibid s 5: see PARA 922 ante.

7 Ibid s 6(1).

8 I.e. subject to ibid s 6(2) proviso: see PARA 926 post.

9 Ibid s 6(2). Any notice given by the minister either determining the date on which an order is to come into force or withdrawing an order (see PARA 926 post) is to be given by publishing the notice (1) in a case where the order relates to England or Wales or any part of them, but not to Scotland or any part of it, in the London Gazette; (2) in a case where the order relates to Scotland or any part of it, but not to England or Wales or any part of them, in the Edinburgh Gazette; (3) in any other case both in the London Gazette and the Edinburgh Gazette; and (4) in the case of an order relating to a particular area, in at least one newspaper circulating in that area: HL Standing Orders (Private Business) (1991) no 214(1); HC Standing Orders (Private Business) (1991) no 248(1).

Halsbury's Laws of England/Parliament (Volume 34 (Reissue)) Paras 728-947/6. The Legislative Work of Parliament/(5) Private Legislation/(ix) Special Procedure Orders/926. Bill to confirm a special procedure order.

926. Bill to confirm a special procedure order.

When an order¹ has been amended by a joint committee and the responsible minister considers it inexpedient to bring the order as amended into effect, he may either by notice given in the prescribed manner² withdraw it or submit it to Parliament for further consideration in a bill for confirmation³. The bill must set out the order as amended by the joint committee and is treated for all purposes as a public bill except that after its presentation it is deemed to have passed through all its stages up to and including committee stage in the House in which it is

presented⁴. The bill proceeds immediately to the report stage when amendments may be moved; it is then read the third time and, if passed, sent to the second House where a similar procedure is followed⁵.

Where a joint committee reports that an order be not approved, the order does not take effect unless confirmed by an Act of Parliament⁶. In this case, the bill sets out the order as it was referred to the committee and is treated for all purposes as a public bill⁷, although the procedure depends on whether there is a duly-certified petition for amendment which was not dealt with by the joint committee. If there is such a petition, the bill after presentation is read a second time and referred to the original joint committee for consideration of the petition; when reported by the committee, the bill is considered and read the third time; and if it is passed in the first House, it is deemed in the second House to have passed all stages up to and including committee⁸. If there are no such petitions outstanding, the bill receives only a report and third reading stage in either House⁹.

In the House of Commons a bill for confirming a special procedure order is, like a private bill, exempt in certain circumstances from complying with the standing orders and practice of the House relating to provisions authorising charges on the public revenue and certain privileges of the House in relation to financial matters in the case of a bill brought from the House of Lords¹⁰.

A power to amend or revoke an order by a subsequent order may be exercised notwithstanding that the original order has been confirmed by an Act¹¹.

1 For the meaning of 'order' see PARA 914 note 1 ante.

2 As to the form of notice see PARA 925 note 9 ante. A copy of a notice withdrawing an order must be laid before each House within four days after it is published: HL Standing Orders (Private Business) (1991) no 214(2); HC Standing Orders (Private Business) (1991) no 248(2). The time-limit may be extended in the case of the dissolution or prorogation of Parliament or a long adjournment: HL Standing Orders (Private Business) (1991) no 201A(1)(d), (2); HC Standing Orders (Private Business) (1991) no 247(1).

3 Statutory Orders (Special Procedure) Act 1945 s 6(2) proviso.

4 Ibid s 6(4).

5 See ibid s 6(4).

6 Ibid s 6(3). A case in point is the Oakhampton Bypass (Confirmation of Orders) Act 1985. The orders in question were two compulsory purchase orders made by the Secretary of State for the Oakhampton bypass section of the Exeter-Launceston-Bodmin trunk road. The land to which the orders related was required for the government's favoured route, but the joint committee, accepting the case made against that route by the petitioners, reported that the orders be not approved. The government then introduced, and secured the passage of, a bill to confirm the orders: see 219 Lords Journals 54, 86; 242 Commons Journals 153.

7 Ibid s 6(5).

8 See ibid s 6(5)(a).

9 See ibid s 6(5)(b).

10 See HC Standing Orders (Private Business) (1991) no 248A, applying nos 156A, 191; and see PARA 521 note 3 ante.

11 Statutory Orders (Special Procedure) Act 1945 s 11(2).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(ix) Special Procedure Orders/927. Orders relating exclusively to Scotland.

927. Orders relating exclusively to Scotland.

The Statutory Orders (Special Procedure) Act 1945 makes provision for special procedure orders relating exclusively to Scotland¹. In general the procedure for these orders is assimilated as far as possible to the procedure followed under the Private Legislation Procedure (Scotland) Act 1936².

1 See the Statutory Orders (Special Procedure) Act 1945 s 10.

2 As to the Private Legislation Procedure (Scotland) Act 1936 see PARAS 928-938 post.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/928. Private legislation procedure.

(x) Scottish Private Legislation

928. Private legislation procedure.

In Scotland, any public authority or any persons who desire to obtain parliamentary powers for any object affecting public or private interests in that country, for which they would have been entitled, before the commencement of the Private Legislation Procedure (Scotland) Act 1899, to apply to Parliament for leave to bring in a private bill, are required to present a petition to the Secretary of State for Scotland praying him to issue a provisional order in accordance with the terms of a draft order submitted to him or with such modifications as may be necessary¹.

1 Private Legislation Procedure (Scotland) Act 1936 s 1(1). The Act does not apply to estate bills and certain other matters: s 16.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/929. Proposals affecting Scotland and elsewhere.

929. Proposals affecting Scotland and elsewhere.

If the proposals of a promoter are to extend beyond the boundaries of Scotland, he may represent to the Secretary of State that he desires to obtain parliamentary powers to operate in Scotland and elsewhere and that the powers should be conferred by a single enactment. The Secretary of State, the Chairman of Committees in the House of Lords and the Chairman of Ways and Means in the House of Commons consider this representation, and, if of opinion that the powers would be more properly obtained by this procedure than by the duplicated process of a draft order for Scotland and a private bill for the areas affected beyond Scotland, they publish their decision and report it to Parliament¹. The promoter may then proceed by private bill, although a petition for the bill may not be presented sooner than four weeks after the representation has been made to the Secretary of State².

1 See the Private Legislation Procedure (Scotland) Act 1936 s 1(4).

2 HL Standing Orders (Private Business) (1991) no 193; HC Standing Orders (Private Business) (1991) no 231. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852; and as to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/930. Preliminary proceedings.

930. Preliminary proceedings.

The main purpose of the Private Legislation Procedure (Scotland) Act 1936 is to provide, for promoters in Scotland, a particular procedure in place of the proceedings on a private bill at its preliminary and committee stages. The Act empowers the Secretary of State, the Chairman of Committees and the Chairman of Ways and Means to make 'general orders' regulating the details of proceedings under the Act¹. These general orders correspond closely to the standing orders of both Houses of Parliament regulating the preliminary and committee stages of private bills and the requirements as to notices, deposits and related matters are very much the same². The examiners appointed in relation to private bills are in practice assigned to act in relation to draft orders made in pursuance of the 1936 Act³.

1 See the Private Legislation Procedure (Scotland) Act 1936 s 15; and the General Orders under the Private Legislation Procedure (Scotland) Act 1936, as revised 1992, published by the Secretary of State.

2 General Orders (1992) nos 1-64, corresponding to HL Standing Orders (Private Business) (1991) nos 1-64; and to HC Standing Orders (Private Business) (1991) nos 1-64.

3 See the Private Legislation Procedure (Scotland) Act 1936 s 13. The examiners' proceedings are regulated by General Orders (1992) nos 65-70A, 72. As to the Examiners of Petitions for Private Bills see PARAS 859-863 ante.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/931. Deposit of the draft order.

931. Deposit of the draft order.

Petitions for orders together with printed copies of each draft order must be submitted to the Secretary of State at the Scottish Office in London on, or within three days prior to, 27 March or 27 November¹. A printed copy of every draft order must be deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons. Other copies must be deposited, on 4 April or 4 December as the case may be, at the Treasury and other prescribed public departments².

1 General Orders (1992) no 2.

2 See the Private Legislation Procedure (Scotland) Act 1936 s 1(2); General Orders (1992) no 39. As to the Clerk of the Parliaments see PARLIAMENT vol 78 (2010) PARA 855.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/932. Petitions against draft orders.

932. Petitions against draft orders.

Petitions against a draft provisional order must be presented to the Secretary of State at the Scottish Office in London not later than six weeks after 11 April or 11 December¹. The Secretary of State must inform the Chairman of Committees and the Chairman of Ways and Means of the fact that the draft order is thus opposed².

1 General Orders (1992) no 75(3). An extension of time is allowed for a petitioner who is a shareholder or member of a company, partnership or other body who has dissented at a meeting held in pursuance of nos 58-63.

2 Private Legislation Procedure (Scotland) Act 1936 s 2(1) proviso. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852; and as to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/933. Report by the chairmen.

933. Report by the chairmen.

Before considering draft orders the Chairman of Committees and the Chairman of Ways and Means, who are empowered to determine all matters of practice and procedure¹, invite representations relevant to their consideration. If representations are made, the agents for the parties are heard. The chairmen report upon all draft orders. If they report that the provisions of the draft order relate to matters outside Scotland to such an extent, or raise questions of public policy of such novelty and importance, that they ought to be dealt with by private bill and not by provisional order, the Secretary of State for Scotland must, without further inquiry, refuse to issue the provisional order so far as it is objected to by the chairmen². The Secretary of State lays upon the table in each House of Parliament a copy of every report made by the chairmen³.

1 See the Private Legislation Procedure (Scotland) Act 1936 s 2(1); HL Standing Orders (Private Business) (1991) no 188; HC Standing Orders (Private Business) (1991) no 226. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852; and as to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940.

2 Private Legislation Procedure (Scotland) Act 1936 s 2(2).

3 Ibid s 2(3); HL Standing Orders (Private Business) (1991) no 189; HC Standing Orders (Private Business) (1991) no 227.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/934. Procedure for a substituted bill.

934. Procedure for a substituted bill.

Where, in accordance with a decision of the Chairman of Committees and the Chairman of Ways and Means¹, the Secretary of State has refused to issue a provisional order, the promoters of the draft order may, if they wish, promote a private bill in substitution². In that case they must, on or before the fourteenth day after the Secretary of State's refusal is notified to them, deposit a copy of the substituted bill in every public office where a copy of the draft order was deposited³.

The promoters must notify their intention to proceed by substituted bill to the opponents of the draft order and prove to the examiner that they have done so⁴. They must also satisfy the examiner that the bill does not contain any provision which was not contained in the draft order, although they are not required to insert all the provisions which were in the order⁵. Subject to these conditions, the notices which were published, served and made for the draft order are deemed to have been published, served and made for the substituted bill, and the petition to the Secretary of State for Scotland for the provisional order is deemed and taken to be the petition for the bill⁶. Similarly, petitions deposited against the draft order are received from the Scottish Office by the House of Parliament in which the bill originates as petitions presented against the substituted bill, and no petition against the bill other than petitions so deposited may be received⁷.

The chairmen determine in which House the substituted bill is to originate, and its subsequent course is identical with that of a private bill⁸.

1 See PARA 933 ante. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852; and as to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940.

2 See the Private Legislation Procedure (Scotland) Act 1936 s 2(4). The promotion of a substituted bill is set in train by the deposit of copies of the bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons.

3 See HL Standing Orders (Private Business) (1991) no 194; HC Standing Orders (Private Business) (1991) no 232.

4 HL Standing Orders (Private Business) (1991) no 195; HC Standing Orders (Private Business) (1991) no 233.

5 See HL Standing Orders (Private Business) (1991) no 196; HC Standing Orders (Private Business) (1991) no 234.

6 HL Standing Orders (Private Business) (1991) no 195; HC Standing Orders (Private Business) (1991) no 233; and see the Private Legislation Procedure (Scotland) Act 1936 s 2(4) proviso.

7 HL Standing Orders (Private Business) (1991) no 197; HC Standing Orders (Private Business) (1991) no 235.

8 The standing orders of both Houses, which provide for certain notices and deposits when any alteration has been made in the first House in any work to be authorised by a private bill, are applied to substituted bills by HL Standing Orders (Private Business) (1991) no 195A; HC Standing Orders (Private Business) (1991) no 233A.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/935. Proceedings on opposed orders.

935. Proceedings on opposed orders.

If an order is opposed, or if the Secretary of State considers it necessary even if there is no opposition, he directs an inquiry to be held into the expediency of making the order. Such inquiries are carried out by commissioners drawn from panels appointed under the Private

Legislation Procedure (Scotland) Act 1936¹. The commissioners sit in Scotland. Their duties and the proceedings before them are analogous to those of a private bill committee, and their powers include enforcement of the attendance of witnesses².

If the commissioners report that an order should not be made, the Secretary of State must refuse to issue it. If they recommend that it should be issued with or without modification, he makes the order as petitioned for or with such modifications as are required having regard to the commissioners' report and to any recommendation of the Chairman of Committees and the Chairman of Ways and Means and of any minister³.

1 See the Private Legislation Procedure (Scotland) Act 1936 ss 3-5; HL Standing Orders (Private Business) (1991) no 190; HC Standing Orders (Private Business) (1991) no 228.

2 See the Private Legislation Procedure (Scotland) Act 1936 s 10. For their powers and duties see also ss 5, 6, 11(6); General Orders (1992) nos 79-91, 93, 95-96A, 105, 106, 108, 113.

3 See the Private Legislation Procedure (Scotland) Act 1936 s 8(1). As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852; and as to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/936. Proceedings on unopposed orders.

936. Proceedings on unopposed orders.

If an order is not opposed, or if opposition has been withdrawn before an inquiry is held, and if the Secretary of State does not direct an inquiry to be held, he requires the promoters to appear before him, or such person as he may appoint¹, to give proof of the expediency of the proposed order. He makes the order with such modifications as appear to be necessary having regard to recommendations from the Chairman of Committees and the Chairman of Ways and Means and from ministers².

1 In practice this function is always carried out by standing counsel to the Secretary of State, appointed for this and other purposes in connection with the Secretary of State's functions under the Private Legislation Procedure (Scotland) Act 1936.

2 See *ibid* s 7; General Orders (1992) no 73. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852; and as to the Chairman of Ways and Means see PARLIAMENT vol 78 (2010) PARA 940.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/937. Modification of draft orders.

937. Modification of draft orders.

If a draft order is modified, whether or not it was opposed, the modified order is referred again to the examiners¹. Before finally making an order as modified, the Secretary of State must have copies deposited in the same offices as the original order².

1 General Orders (1992) no 68.

- 2 See the Private Legislation Procedure (Scotland) Act 1936 ss 7(1), 8(1).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/(x) Scottish Private Legislation/938. Issue of order and confirmation by Parliament.

938. Issue of order and confirmation by Parliament.

A provisional order made and issued by the Secretary of State for Scotland is not valid until confirmed by Parliament, and a confirmation bill must be introduced by the Secretary of State for this purpose¹.

The procedure in Parliament differs as between bills confirming orders upon which an inquiry has been held by commissioners² and those upon which no inquiry has been held³. If no inquiry has been held the bill is taken as having passed all the stages up to and including committee. In the first House the bill is ordered to be considered immediately it has been presented, and immediately after consideration and third reading it is sent to the second House, where it is subject to the same procedure before obtaining the royal assent³. Thus while the confirming bill may be debated and can be rejected in either House, it is not open to objection from petitioners.

If any inquiry has been held, the following procedure on the confirming bill is laid down. If within seven days of the bill's presentation in the first House a petition is deposited against the order comprised in the bill, a member of either House may, after second reading, move to refer the bill to a joint committee of both Houses. If such a motion is carried, the parties, or their counsel or agents, may be heard by the joint committee⁴. The committee consists of three members of either House, nominated in the House of Commons by the Committee of Selection and usually nominated in the House of Lords by the Chairman of Committees⁵. The committee has power to determine locus standi⁶ and to award costs⁷. The committee's report is laid before both Houses⁸. The subsequent procedure on bills proceeded with under these provisions varies with the circumstances of each case⁹.

1 See the Private Legislation Procedure (Scotland) Act 1936 ss 7(2), 8(3). In the House of Commons the standing orders relating to financial matters in private bills are applied to confirmation bills: see HC Standing Orders (Private Business) (1991) no 228A.

2 See the Private Legislation Procedure (Scotland) Act 1936 ss 8, 9(1).

3 See *ibid* s 7. As to royal assent see PARAS 833-835 ante.

4 See *ibid* s 9(1).

5 HL Standing Orders (Private Business) (1991) nos 95(1), 191(1); HC Standing Orders (Private Business) (1991) no 229. As to the Committee of Selection see PARLIAMENT vol 78 (2010) PARA 989; and as to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852.

6 See the Private Legislation Procedure (Scotland) Act 1936 s 9(1).

7 *Ibid* s 9(3). Costs may be taxed and recovered and are secured in the manner provided in the Parliamentary Costs Act 1865, subject to any necessary modifications: Private Legislation Procedure (Scotland) Act 1936 s 9(3). See further PARAS 871, 899 ante.

8 *Ibid* s 9(2).

9 See Erskine May's Parliamentary Practice (22nd Edn, 1997) Ch 41.

UPDATE

938 Issue of order and confirmation by Parliament

NOTE 7--Now in the manner provided in the Parliamentary Costs Act 2006 ss 9-12 (see PARA 899): 1936 Act s 9(3) (amended by the 2006 Act s 17(2)).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (xi) Private Bills relating to Northern Ireland/939. Private legislation relating to Northern Ireland.

(xi) Private Bills relating to Northern Ireland

939. Private legislation relating to Northern Ireland.

Since the enactment of the Northern Ireland Act 1974, laws on almost any matter in the province, private as well as public, can be made by Order in Council subject to approval by resolution of each House of Parliament¹. Persons or authorities seeking powers which in Great Britain are obtained by private bill or provisional or special procedure orders are thus able to obtain them in Northern Ireland by Order in Council. However, three private bills, all promoted by bodies having charitable functions, have been passed since 1974².

¹ See the Northern Ireland Act 1974 s 1(3), Sch 1; and CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 71.

² See the Foyle and Londonderry College Act 1976; the Union Theological College of the Presbyterian Church in Ireland Act 1978; and the Belfast Charitable Society Act 1996.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(5) PRIVATE LEGISLATION/ (xi) Private Bills relating to Northern Ireland/940. Application of House of Lords standing orders.

940. Application of House of Lords standing orders.

Where a bill is promoted relating wholly or partially to Northern Ireland, the standing orders of the House of Lords apply to the bill subject to such adaptations and modifications as may be prescribed by general or special directions of the Chairman of Committees, or of the Standing Orders Committee in cases where the Chairman of Committees thinks fit to refer the matter to that committee¹.

¹ HL Standing Orders (Private Business) (1991) no 200. At the date at which this volume states the law, no equivalent standing order has been made in relation to the House of Commons. As to the Chairman of Committees see PARLIAMENT vol 78 (2010) PARA 852.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(6) SUBORDINATE LEGISLATION/941. Manner of laying documents before Parliament.

(6) SUBORDINATE LEGISLATION

941. Manner of laying documents before Parliament.

Where subordinate legislation is required by its enabling Act to be laid before Parliament, what constitutes laying in either House is governed by the orders and practice of the House¹. The great bulk of subordinate legislation is embodied in statutory instruments² and each House has a standing order dealing with the laying of such instruments³. The standing orders have, however, to be read against the practice of the two Houses as to the laying of documents generally. The practice is that laying may normally be effected by depositing a copy of the document with the Clerk of the Parliaments in the House of Lords and by delivering a copy to the Votes and Proceedings Office in the House of Commons, on any day when the House sits (except, in the Lords, a day on which the House sits only for judicial business). The effect of the standing orders is that statutory instruments, though laid in the same manner as other documents, are in general not restricted to being laid on sitting days but may be laid on any day during the existence of a Parliament⁴. Certain statutory instruments are, however, excluded from the standing orders⁵ and the excluded instruments (in the same way as draft statutory instruments and any subordinate legislation outside the class of statutory instruments) may be laid only on sitting days. The excluded instruments are special procedure orders⁶, instruments requiring an affirmative resolution before they can come into operation⁷, and other instruments which are required to be laid for any period before they come into operation⁸.

1 Laying of Documents before Parlia'ment (Interpretation) Act 1948 s 1: see STATUTES vol 44(1) (Reissue) PARA 1515.

2 For the meaning of 'statutory instrument' see the Statutory Instruments Act 1946 s 1; and STATUTES vol 44(1) (Reissue) PARA 1503.

3 HL Standing Orders (Public Business) (1994) no 68; HC Standing Orders (Public Business) (1997) no 159.

4 HL Standing Orders (Public Business) (1994) no 68; HC Standing Orders (Public Business) (1997) no 159. In the House of Lords an instrument may be deposited between specified hours on any day except Sunday, Christmas Day, Good Friday or a Bank Holiday (HL Standing Orders (Public Business) (1994) no 68(2)), and provision is made for publication of particulars of the deposit of instruments (no 68(3)). As a matter of practice, instruments are not normally laid before the Commons on Saturdays, Sundays, bank holidays, Good Friday, Christmas Day or after 3.30 pm on Fridays, unless the House is sitting.

5 HL Standing Orders (Public Business) (1994) no 68(1) proviso; HC Standing Orders (Public Business) (1997) no 159 proviso.

6 See PARA 914 ante.

7 See PARA 944 post. Such instruments are specifically excluded by HL Standing Orders (Public Business) (1994) no 68(1) proviso. HC Standing Orders (Public Business) (1997) no 159 proviso does not have this specific exclusion but such instruments are treated by the Commons as covered by the words 'any other instrument which is required to be laid before Parliament, or before this House, for any period before it comes into operation'.

8 These specific references in the standing orders to instruments required to be laid for a period before coming into operation are references to a requirement of the enabling Act and are to be distinguished from the general requirement of the Statutory Instruments Act 1946 s 4 (see PARA 942 post) that an instrument should be laid before coming into operation.

UPDATE

941-947 Subordinate legislation

As to the making of subordinate legislation by the Welsh Ministers, the First Minister and the Counsel General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 42F.

941 Manner of laying documents before Parliament

NOTE 5--1948 Act s 1 amended: Government of Wales Act 2006 Sch 10 para 4.

Halsbury's Laws of England/Parliament (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(6) SUBORDINATE LEGISLATION/942. Instruments required to be laid after being made.

942. Instruments required to be laid after being made.

Where any statutory instrument¹ is required by statute to be laid before Parliament after being made, copies of the instrument must be so laid before the instrument comes into operation², unless it is essential that it should operate before the copies can be laid, when a notification in explanation must be sent forthwith to the Lord Chancellor and the Speaker of the House of Commons³, each of whom must lay the notification upon the table of the appropriate House⁴. In the event of a vacancy in the office of Lord Chancellor or Speaker, the notification may be sent immediately after the vacancy is filled⁵. The period within which subordinate legislation outside the scope of the Statutory Instruments Act 1946⁶ must be laid depends upon the provisions of the relevant enabling statute. In most cases it is provided that such legislation be laid forthwith after being made. A requirement that an instrument embodying subordinate legislation must be laid before Parliament is not regarded as a condition precedent to its operation unless the enabling statute so specifies⁷; it is merely directory not mandatory⁸.

The fact that an instrument has been laid before Parliament does not fetter the power to challenge it as ultra vires in the courts⁹ and that is so even where the instrument is subject to affirmative procedure and has been approved by both Houses¹⁰.

1 For the meaning of 'statutory instrument' see the Statutory Instruments Act 1946 s 1; and STATUTES vol 44(1) (Reissue) PARA 1503. See also s 8(1)(d). For the power to extend the Act to other orders etc and to modify the application of certain provisions of the Act see s 9(1), (3); and STATUTES vol 44(1) (Reissue) PARA 1503.

2 Ibid s 4(1).

3 Ibid s 4(1) proviso. For the application of the provision to instruments required to be laid before the House of Commons only, and for the exclusion from its application of instruments subject to special parliamentary procedure (see PARAS 914-927 ante) or required to be laid before they come into operation see the Statutory Instruments Act 1946 s 7(2), (3); and STATUTES vol 44(1) (Reissue) PARAS 1515-1516.

4 HL Standing Orders (Public Business) (1994) no 69; HC Standing Orders (Public Business) (1997) no 160.

5 Laying of Documents before Parliament (Interpretation) Act 1948 s 2; see further STATUTES vol 44(1) (Reissue) PARA 1515.

6 See note 1 supra; and STATUTES vol 44(1) (Reissue) PARA 1503 et seq.

7 *Bailey v Williamson* (1873) LR 8 QB 118 at 132.

8 *Starey v Graham* [1899] 1 QB 406 at 412; *Jones v Robson* [1901] 1 KB 673, DC. However, in *R v Sheer Metalcraft Ltd* [1954] 1 QB 586, [1954] 1 All ER 542, it was apparently assumed that the instrument there in question did not take effect until laid: see at 590 and at 545. For an instance where it was specially provided that laying before Parliament should be a condition precedent see *Metcalfe v Cox* [1895] AC 328, HL.

9 *Institute of Patent Agents v Lockwood* [1894] AC 347 at 366, HL; and see *Minister of Health v R, ex p Yaffe* [1931] AC 494 at 502-503, HL. See further STATUTES vol 44(1) (Reissue) PARA 1520 et seq. As to the position where Parliament has affirmatively approved draft rules see PARA 944 note 1 post.

10 *Hoffmann-La-Roche & Co AG v Secretary of State for Trade and Industry* [1975] AC 295 at 349, [1974] 2 All ER 1128 at 1140, HL, per Lord Morris of Borth-y-Gest, at 354 and 1145 per Lord Wilberforce and at 365 and 1153 per Lord Diplock. The courts can judicially review the vires of an instrument while it is still lying in draft before Parliament, awaiting approval resolutions from each House: *R v HM Treasury, ex p Smedley* [1985] QB 657, [1985] 1 All ER 589, CA.

UPDATE

941-947 Subordinate legislation

As to the making of subordinate legislation by the Welsh Ministers, the First Minister and the Counsel General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 42F.

942 Instruments required to be laid after being made

NOTE 5--Laying of Documents before Parliament (Interpretation) Act 1948 s 2 amended: Constitutional Reform Act 2005 Sch 6 para 5(1).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(6) SUBORDINATE LEGISLATION/943. Parliamentary control.

943. Parliamentary control.

Whether a statutory instrument, or any other instrument embodying subordinate legislation, is subject to any, and if so what, form of parliamentary control depends upon the terms of the enabling Act. Some instruments are not required to be laid before Parliament at all. Some are required to be laid but are not made subject to any form of parliamentary proceedings. Some are subject to negative procedure: that is to say, they are submitted to the possibility of being rejected by either House. A few are made subject to affirmative procedure: that is to say they are required to be positively affirmed by both Houses.

In the House of Lords, all motions relating to statutory instruments are considered on the floor of the House. In the House of Commons, once a minister has given notice of a motion to approve an instrument subject to affirmative procedure other than a draft deregulation order¹, it stands automatically referred to a Standing Committee on Delegated Legislation (unless notice is given by a minister that it should not so stand referred, or the instrument is referred to the Scottish Grand Committee). Instruments subject to negative procedure are referred to a Standing Committee on Delegated Legislation if a member of the House has given notice of a motion praying that the instrument be annulled (or in another similar form, appropriate to the enabling Act) and if the House agrees, on the motion of a minister, that the instrument should be so referred². Whatever the procedure appropriate to any instrument, it is only the House and not a committee which takes the substantive decision.

Where no special statutory provision is made for parliamentary control of subordinate legislation, the opportunities for such control are in effect limited to the general methods of challenging the actions of the executive, such as questions to the minister³. Special attention may be drawn to such instruments by the Joint Committee on Statutory Instruments⁴.

- 1 See PARA 947 post.
- 2 See PARA 806 ante.
- 3 See PARLIAMENT vol 78 (2010) PARA 807.
- 4 See PARA 946 post.

UPDATE

941-947 Subordinate legislation

As to the making of subordinate legislation by the Welsh Ministers, the First Minister and the Counsel General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 42F.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(6) SUBORDINATE LEGISLATION/944. Affirmative procedure.

944. Affirmative procedure.

There are three kinds of affirmative procedure: (1) the instrument has to be laid in draft before both Houses of Parliament and cannot be made unless the draft has been approved by a resolution of each House (or, in the case of certain Orders in Council, unless each House has resolved that an address be presented to Her Majesty praying that the Order be made)¹; (2) the instrument has to be laid before both Houses after being made and cannot come into operation unless and until approved by a resolution of each House; (3) the instrument has to be laid before both Houses after being made and can come into operation immediately but has to be approved by a resolution of each House within a period specified in the enabling Act (normally either 28 days or 40 days) if it is to remain in operation². Motions for an affirmative resolution may be moved at the time of public business in either House. In the Commons they may not be continued longer than one and a half hours after they have been entered upon but there is no restriction as to the time at which they may be taken³. In the Lords an affirmative motion may not be moved until the report of the Joint Committee on Statutory Instruments on the relevant instrument (or, in the case of a draft deregulation order, the report of the Delegated Powers and Deregulation Committee)⁴ has been laid before the House⁵.

1 In *Harper v Secretary of State for the Home Department* [1955] Ch 238, [1955] 1 All ER 331, CA (cited in PARA 593 note 4 ante) the Court refused to restrain the minister from submitting to the Queen in Council a draft Order in Council approved by both Houses. It seems doubtful, however, whether any rule as to draft instruments generally can be derived from that aspect of the case. The Act there actually imposed a duty on the minister to submit the draft order to the Queen in Council once it had been approved by both Houses and the court apparently attached importance to that (*Harper v Secretary of State for the Home Department* supra at 248 and at 335) but in any event, the court found against the applicants on the merits of the challenge. There is no doubt that approval of an instrument by both Houses does not render it immune from challenge in the courts; and it has been held that the courts can judicially review a proposed instrument, laid before Parliament in draft, while the draft still awaits approval by both Houses: see PARA 942 note 10 ante. See also CIVIL PROCEDURE vol 11 (2009) PARA 354.

2 In all three kinds of case there are some instruments, relating to taxation or other financial matters, that are required to be laid before and approved by the Commons only.

3 See HC Standing Orders (Public Business) (1997) no 16(1); and PARLIAMENT vol 78 (2010) PARA 905.

4 See PARA 947 post.

5 See HL Standing Orders (Public Business) (1994) no 70; and PARAS 946-947 post.

UPDATE

941-947 Subordinate legislation

As to the making of subordinate legislation by the Welsh Ministers, the First Minister and the Counsel General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 42F.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(6) SUBORDINATE LEGISLATION/945. Negative procedure.

945. Negative procedure.

Where an enabling statute provides that a statutory instrument may be annulled in pursuance of a resolution of either House of Parliament, a motion for an address to the Crown praying that the instrument be annulled may be moved in either House within a period of 40 days beginning with the day on which the instrument was laid¹. In reckoning this period no account is taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days². If the motion is agreed to in either House, no further proceedings may be taken under the instrument, which will be formally revoked by Order in Council without prejudice to the validity of anything previously done under it or to the making of a new statutory instrument³.

Where an enabling statute requires that a statutory instrument is to be laid in draft but does not prohibit the making of the instrument without the approval of Parliament, the instrument is not to be made, or submitted to the Crown in the case of an Order in Council, until a similar period of 40 days has elapsed; during that period either House may resolve that the instrument be not made, or be not submitted to the Crown as the case may be; and, if either House resolves to that effect, no further proceedings may be taken on the instrument, without prejudice to the laying of a fresh draft⁴.

Motions for annulling a statutory instrument and corresponding motions in relation to an instrument laid in draft may be moved at the time of public business in either House. In the Commons such motions may be entered upon until 11.30 pm but may not continue after that hour⁵.

It has been ordered in the Lords that documents required to be laid for a prescribed number of days must be laid in a printed form and circulated to members of the House⁶. In the Commons it has been ruled that the days do not begin to run until the complete text of a document has been laid, or the document can reasonably be said to be available⁷.

1 See the Statutory Instruments Act 1946 s 5(1); and STATUTES vol 44(1) (Reissue) PARA 1516. For the application of the provision to instruments required to be laid before the House of Commons only, and for the exclusion from its application of instruments subject to special parliamentary procedure (see PARAS 914-927 ante) or required to be laid before they come into operation see s 7(2), (3); and STATUTES vol 44(1) (Reissue) PARA 1516.

2 Ibid s 7(1).

3 See *ibid* s 5. For instances where a new statutory instrument has been made after the House of Commons has resolved that a similar instrument should be annulled see the *Special Report from the Select Committee on Statutory Instruments* (HC Paper 239 (1950-51)).

4 See the Statutory Instruments Act 1946 s 6(1); and STATUTES vol 44(1) (Reissue) PARA 1517. As to the application of the provision to instruments required to be laid before the House of Commons only see s 7(2); and STATUTES vol 44(1) (Reissue) PARA 1517. For a government statement that in normal circumstances this type of procedure will be avoided in future enactments see the *Second Report from the Joint Committee on Delegated Legislation* (HL 204 (1972-73)) p 49.

5 See HC Standing Orders (Public Business) (1997) no 17; and PARLIAMENT vol 78 (2010) PARA 905.

6 132 Lords Journals 107.

7 486 HC Official Report (5th series), 4 April 1951, col 205.

UPDATE

941-947 Subordinate legislation

As to the making of subordinate legislation by the Welsh Ministers, the First Minister and the Counsel General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 42F.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(6) SUBORDINATE LEGISLATION/946. Scrutiny of statutory instruments generally.

946. Scrutiny of statutory instruments generally.

A joint committee of both Houses of Parliament considers instruments and draft instruments with a view to determining whether the special attention of the House should be drawn to them on a number of grounds specified in the orders of reference of the committee¹. With the exception of draft deregulation orders², every general statutory instrument or draft statutory instrument is considered by the committee. Except in the case of draft instruments, an instrument is considered whether or not it has been laid before Parliament or is subject to proceedings in Parliament. The Commons members of the joint committee act as a separate Commons select committee in considering instruments subject to proceedings in their House only³. When a committee has drawn special attention to an instrument, no procedure in either House necessarily follows, but in the Lords a motion for an affirmative resolution may not be moved until the instrument in question has been reported upon⁴.

In the Lords a procedure exists whereby instruments which are held to have the characteristics of private or hybrid bills may be petitioned against by persons affected by them, and such petitions, together with the instrument in question, are referred to the Hybrid Instruments Committee⁵. This committee reports on the locus standi of petitioners and on whether a further inquiry should be held by a select committee. In certain cases concerning expedited hybrid instruments, where the Act conferring the power to make the instrument attracts the procedure known as 'expedited hybrid instrument' procedure, the Hybrid Instruments Committee conducts an inquiry itself⁶.

1 The joint committee was first appointed in 1973 and replaced separate committees of the two Houses. The committee is principally concerned with good drafting practice, timely publication and laying, whether there appears to be doubt about the vires of the instrument or whether there has been an unusual or unexpected use of the powers conferred by the parent statute. In the Commons, the committee is now established by standing

order (HC Standing Orders (Public Business) (1997) no 151); but in the Lords it is still provided for by sessional orders.

2 The draft orders laid before Parliament under the Deregulation and Contracting Out Act 1994 s 1(4): see PARA 947 post.

3 HC Standing Orders (Public Business) (1997) no 151(10).

4 HL Standing Orders (Public Business) (1994) no 70(1).

5 As to private and hybrid bills see PARA 839 et seq, 845 et seq ante. The procedure was instituted in 1975 and replaces the work of the Special Orders Committee in this respect, which lapsed with the establishment of the Joint Committee on Statutory Instruments. See HL Standing Orders (Private Business) (1991) nos 216, 216A. An affirmative motion on a hybrid instrument cannot be taken until the hybridity proceedings on it have terminated: HL Standing Orders (Public Business) (1994) no 70(1)(c).

6 As to expedited hybrid instrument procedure see HL Standing Orders (Private Business) (1991) no 216A. Expedited hybrid instruments may be made under the Offshore Petroleum Development (Scotland) Act 1975 s 1(7).

UPDATE

941-947 Subordinate legislation

As to the making of subordinate legislation by the Welsh Ministers, the First Minister and the Counsel General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 42F.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/6. THE LEGISLATIVE WORK OF PARLIAMENT/(6) SUBORDINATE LEGISLATION/947. Scrutiny in relation to deregulation orders.

947. Scrutiny in relation to deregulation orders.

Both Houses of Parliament have a special scrutiny procedure in relation to deregulation orders, which are laid in draft before, and cannot be made unless approved by resolution of, both Houses¹. Before, however, a draft deregulation order can be laid for approval the minister concerned is required, after consultation with outside interests, to lay before Parliament a document embodying the proposed draft order². There is then a period of 60 days for parliamentary consideration of the document, with a requirement for the minister to have regard to any representations made during that period and in particular to any resolution or report of, or of any committee of, either House with regard to the document³. The provision for this preliminary procedure, which was novel and is unique to deregulation orders, led to the establishment of special deregulation scrutiny machinery in each House. In the Lords, this was done by adding this new scrutiny function to an existing committee, the Delegated Powers Scrutiny Committee⁴, the name of which was in consequence changed to the Delegated Powers and Deregulation Committee. The committee is required to report on both the proposal document and the draft order ultimately laid, and in respect of the draft order the committee exercises the same functions as are exercised by the Joint Committee on Statutory Instruments in relation to other statutory instruments⁵. In the Commons a new committee, the Deregulation Committee, was set up for these purposes, with terms of reference⁶ covering the same ground as (though more elaborate than) the deregulation function of the Lords committee. Like the latter, the Commons committee is required to report on the proposal document and the draft order when laid. The substantial decision on the draft order rests with the House, but whether time is allowed for debate on the floor of the House and what period is allowed depends on whether the committee approved the draft without a division (when no debate is permitted);

approved it with a division (when debate may last for one and a half hours); or resolved that it should not be approved (when a debate of three hours may take place)⁷.

- 1 See the Deregulation and Contracting Out Act 1994 s 1(4). A 'deregulation order' is an order made under s 1.
- 2 See *ibid* s 3(3). He must also lay before Parliament details of the matters specified in s 3(4)(a)-(g).
- 3 See *ibid* s 4.
- 4 See PARA 739 *ante*.
- 5 As in the case of the report of the Joint Committee on Statutory Instruments on other affirmative instruments, no motion to approve a draft regulation order may be taken in the Lords until the report of the Delegated Powers and Deregulation Committee has been laid before the House: HL Standing Orders (Public Business) (1994) no 70(1)(b).
- 6 See HC Standing Orders (Public Business) (1997) no 141.
- 7 See *ibid* no 18.

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/7. THE FINANCIAL WORK OF PARLIAMENT

7. THE FINANCIAL WORK OF PARLIAMENT

UPDATE

948-989 The Financial Work of Parliament

Material relating to this part has been revised and published under the title PARLIAMENT vol 78 (2010).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/8. BROADCASTING

8. BROADCASTING

UPDATE

990-993 Broadcasting

Material relating to this part has been revised and published under the title PARLIAMENT vol 78 (2010).

Halsbury's Laws of England/PARLIAMENT (VOLUME 34 (REISSUE)) PARAS 728-947/9. MEMBERS' INTERESTS AND CONDUCT

9. MEMBERS' INTERESTS AND CONDUCT

UPDATE

994-1027 Members' Interests and Conduct

Material relating to this part has been revised and published under the title PARLIAMENT
vol 78 (2010).